United Nations A/70/852–S/2016/356

General Assembly
Security Council

Distr.: General
28 April 2016

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General Assembly
Seventieth session
Agenda item 77
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Seventy-first year

Identical letters dated 18 April 2016 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

I have the honour to transmit herewith a copy of the letter of Ms. Kolinda Grabar-Kitarović, the President of the Republic of Croatia, regarding the first instance judgment of the International Criminal Tribunal for the Former Yugoslavia in the Šešelj case (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 77, and of the Security Council.

(*Signed*) Vladimir **Drobnjak**
Ambassador
Permanent Representative

16-07047 (E) 040516

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Annex to the identical letters dated 18 April 2016 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

18 April 2016

As the President of the Republic of Croatia, I am deeply disappointed and concerned with the first instance judgment of the International Criminal Tribunal for the Former Yugoslavia in the Šešelj case. I am completely aware that the competent trial chamber of the International Criminal Tribunal for the Former Yugoslavia is independent in its proceedings and decision-making process and that this is a first instance judgment, which was rendered by a majority vote of the three-member Trial Chamber and is subject to the final assessment of the Appeals Chamber.

Nevertheless, it is completely clear that this judgment is not only contrary to the foundations and purpose of the International Criminal Tribunal for the Former Yugoslavia, which was established in 1993 pursuant to the Security Council resolution 827 (1993), but is also deeply damaging to the process of establishing lasting reconciliation, as well as national and religious tolerance in the area of South-East Europe.

At the same time, it should also be added that on 13 October 2015, the then President of the International Criminal Tribunal for the Former Yugoslavia, Theodor Meron, sent a letter to the Security Council reporting on the serious failure of the Republic of Serbia to respect its international obligations. The letter was based on the fact that Serbia did not extradite to the International Criminal Tribunal for the Former Yugoslavia three of its nationals who are indicted before the Tribunal for intimidation and bribing witnesses in the Šešelj case. We can only guess to what extent such conduct damaged the credibility and quality of the testimony, but it is an indisputable fact that important witnesses in the Šešelj case were intimidated, bribed and obstructed in giving their testimony. In this context, the first instance judgment is additionally legally questionable and, from the aspect of its credibility, completely compromised.

We expect not only that Serbia fully cooperates with the International Criminal Tribunal for the Former Yugoslavia, but we also insist that no one ignore the fact that the procedure against witnesses in the Šešelj case was impermissible to the extent that the Tribunal found it necessary to raise an indictment against those responsible for it.

At the same time, this judgment is a very dangerous precedent for all other armed conflicts in which there is an attempt at reaching military objectives by means of committing genocide and ethnic cleansing based on nationalist or racist ideology and criminal inflammatory propaganda.

Vojislav Šešelj is the embodiment of national and religious intolerance, the symbol of persecution and ethnic cleansing in the Republic of Croatia, Bosnia and Herzegovina and Vojvodina (Republic of Serbia) and the instigator of the creation of a "Greater Serbia" by force and through crimes. Therefore, his acquittal is completely contrary to earlier findings of fact and law by the competent chambers of the International Criminal Tribunal for the Former Yugoslavia with reference to

the armed conflict in the territory of the Republic of Croatia and represents an absolute disrespect for victims and their suffering, which intensely continues.

This judgment caused consternation among Croatia's general public and consequently a deep disappointment with the International Criminal Tribunal for the Former Yugoslavia, which in this case proved to be obviously non-resistant to the abuse of international public and criminal law. Furthermore, it will have a negative impact on peace, reconciliation and good-neighbourly relations in the broader area of South-East Europe and all crisis areas of the world. This first instance trial chamber judgment has deeply shaken the trust in the International Criminal Tribunal for the Former Yugoslavia and the reasons why it was established by the Security Council.

During the war and the open aggression against Croatia in 1991, my country strongly supported and welcomed the establishment of the International Criminal Tribunal for the Former Yugoslavia and, from the very beginning, emphasized its special importance and has cooperated with it sincerely and actively.

Additionally, the International Criminal Tribunal for the Former Yugoslavia and its work are of great significance for the overall development of international criminal justice. This kind of judgment sets a negative precedent whose consequences can go beyond the framework of the International Criminal Tribunal for the Former Yugoslavia itself and contaminate the overall perception of the global public about the significance, scope and purpose of international criminal law.

In the context of everything stated above, I ask you to pay special attention to the successful closure of the work of the International Criminal Tribunal for the Former Yugoslavia, while at the same time taking into account the basic reasons for its establishment and, especially, respect for the rights of the victims. In these endeavours, you will certainly have my full support, as well as the support of the Republic of Croatia.

Kolinda **Grabar-Kitarović**

United Nations A/70/853–S/2016/400

General Assembly
Security Council

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29 April 2016

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General Assembly
Seventieth session
Agenda item 85
The rule of law at the national and international levels

Security Council
Seventy-first year

Letter dated 28 April 2016 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I have the honour to enclose a letter from the Minister for Foreign Affairs of the Islamic Republic of Iran, M. Javad Zarif, addressed to you, regarding the violation of the principle of sovereign immunity of States by the United States of America (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 85, and of the Security Council.

(*Signed*) Gholamali **Khoshroo**
Ambassador
Permanent Representative

16-07090 (E) 060516

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Annex to the letter dated 28 April 2016 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

In the past few years, the United States has persistently engaged in a dangerous practice of defying international law and order by allowing, in fact instigating, private litigants to bring civil action before United States domestic courts against sovereign States, including the Islamic Republic of Iran. Trials have been organized in absentia; self-serving judgments have been obtained in default; and claims have been laid on the assets of the Iranian people. Knowing full well that no self-respecting nation, certainly not Iran, would ever subject itself to the jurisdiction of another State's domestic courts, they have amassed billions of dollars in unlawful and factually flawed default judgments against the Islamic Republic of Iran and its organs.

The United States executive branch illegally freezes Iranian national assets; the United States legislative branch legislates to pave the ground for the illicit seizures; and the United States judicial branch issues rulings to confiscate Iranian assets without any base in law or fact. The veracity and credibility of the United States justice system — when it comes to its treatment of Iran — can be measured by the recent ruling of a New York District Court that ordered Iran to pay more than $10.5 billion in damages to the families of the victims of the 11 September 2001 terrorist attacks, claiming against all evidence and common sense that Iran "provided active support to the attackers". Such an absurd allegation — not by a politician but regrettably by a so-called court of law — contradicts seven public statements, as well as findings — open or sealed — of investigations by the United States Government and United States Congress. Ironically, the same court absolved the real culprits of any responsibility and ruled against Iran, which was the victim of the same terrorist group and has consistently been in the forefront of international efforts against it and its takfiri extremist siblings.

In sum, in blatant contravention of the most fundamental principles of international law, not to mention facts, the United States has devised a pseudo-legal scheme that subjects Iranian assets held in United States and foreign banks, and even Iranian cultural property held on loan by American museums, to spurious rulings and unlawful collection proceedings.

The principle of State immunity is one of the cornerstones of the international legal order and a rule of customary international law, most recently codified in the United Nations Convention on Jurisdictional Immunities of States and Their Property. Its primacy has also been recognized by the community of nations, all legal systems and the International Court of Justice. With the sole possible permissible exception of "commercial activity", claims against a sovereign State must be pursued either in accordance with mechanisms provided for in bilateral or multilateral agreements or through international courts or tribunals, as appropriate.

It is a matter of grave concern that the United States Congress, along with other branches of the United States Government, seem to believe that they can easily defy and breach the fundamental principle of State immunity by unilaterally waiving the immunity of States and even central banks in total contravention of the international obligations of the United States and under a groundless legal doctrine that the international community does not recognize.

In view of the detrimental effect of such practices on the integrity of the international public order, I wish to alert you, and through you the United Nations general membership, about the catastrophic implications of the blatant disrespect of the United States for State immunity, which will cause the systematic erosion of this fundamental principle.

The Islamic Republic of Iran rejects the unlawful decisions by United States courts in this respect, including the ruling that authorized the confiscation of nearly $1.8 billion of assets belonging to the Central Bank of Iran to the benefit of private litigants. The entire court proceedings that led to the recent ruling have been fake and phony and a travesty of justice in every sense of law, jurisdiction, merit, fact and process. This clearly constitutes an internationally wrongful act and entails international responsibility for the Government of the United States, for which it will be held accountable. The Islamic Republic of Iran holds the United States Government responsible for this outrageous robbery, disguised under a court order, and is determined to take every lawful measure to restore the stolen property and the interest accrued to it from the date on which it was blocked by the United States.

It is in fact the United States that must pay long-overdue reparations to the Iranian people for its persistent hostile policies. Such wrongful United States policies and actions against the Iranian people, entailing international responsibility, are self-admitted and based on solid historical evidence and not absurd fabrications. They include overthrowing the democratically elected Government of Iran in 1953, actively supporting and sponsoring the ensuing brutal dictatorship and aiding and abetting in its crimes — including torture by the United States-created and United States-trained SAVAK — against the Iranian people from 1953 to 1979, actively providing intelligence, support and comfort to Saddam Hussein in his war of aggression against Iran from 1980 to 1988, including provision of airborne warning and control system reconnaissance to aid Saddam's use of chemical weapons against Iranian soldiers and civilians — which amounts to a war crime, deliberately shooting down an Iranian civil airliner in 1988, killing all 290 passengers, and plundering Iranian assets held abroad. The Islamic Republic of Iran reserves the right to take appropriate lawful action, including necessary and proportionate countermeasures, to restore and protect the rights of the Iranian people against such persistent unlawful conduct by the United States.

There has seldom been so much at stake for the rule of law, the proper functioning and integrity of the international legal and financial systems and the prevalence of dialogue and accommodation over coercion and confrontation. In view of the detrimental effects of the continued unlawful conduct by the United States, I wish to call upon you to lend your good offices in order to induce the United States Government to adhere to its international obligations, put an end to the violation of the fundamental principle of State immunity, release all frozen Iranian assets in United States banks and cease and desist forthwith from any interference with Iranian commercial and financial transactions outside the United States, in compliance with its general international obligations and its obligations under the Joint Comprehensive Plan of Action.

(*Signed*) M. Javad **Zarif**

United Nations A/70/854–S/2016/393

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Security Council

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General Assembly
Seventieth session
Agenda item 34
Prevention of armed conflict

Security Council
Seventy-first year

Letter dated 27 April 2016 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a note from the Permanent Mission of the Russian Federation to the Organization for Security and Cooperation in Europe, dated 12 April 2016 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(*Signed*) V. **Churkin**

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Annex to the letter dated 27 April 2016 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

The Permanent Mission of the Russian Federation to the Organization for Security and Cooperation in Europe (OSCE) presents its compliments to the Permanent Mission of the Republic of Azerbaijan to the OSCE and, with reference to the note of the Permanent Mission of the Republic of Azerbaijan to the OSCE dated 11 April 2016, has the honour to convey the information below.

Since the start of large-scale hostilities in the Nagorno-Karabakh conflict zone on 2 April 2016, the Russian Federation, like other OSCE Minsk Group Co-Chair countries, has urged the parties to strictly comply with the 1994 ceasefire agreement and the follow-up 1995 Agreement for the Strengthening of the Ceasefire Regime in the Nagorno-Karabakh conflict. The Russian Federation welcomed the agreement reached to restore the ceasefire regime, from 5 April 2016, as a result of the efforts of the mediators.

The Russian Federation calls on the parties in future to prevent any violations of the aforementioned 1994 and 1995 agreements, which are permanent and continue to form the basis for the truce in the conflict zone.

The Russian Federation is firmly convinced that the parties must resume the negotiating process in order to achieve a sustainable peace settlement. The Russian Federation reiterates its readiness to act as an international mediator and to provide all necessary assistance to attain that objective.

The Permanent Mission of the Russian Federation to the OSCE takes this opportunity to convey to the Permanent Mission of the Republic of Azerbaijan to the OSCE the renewed assurances of its highest consideration.

Vienna, 12 April 2016

United Nations A/70/855–S/2016/406

General Assembly
Security Council

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2 May 2016

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General Assembly
Seventieth session
Agenda items 44 and 79 (a)

Security Council
Seventy-first year

Question of Cyprus

Oceans and the law of the sea: oceans and the law of the sea

Letter dated 28 April 2016 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

With reference to the letter from the Greek Cypriot representative dated 7 April 2016 (A/70/825-S/2016/329), I would like to bring to your attention the following considerations.

First, I would like to emphasize that, as the country with the longest continental coastline in the eastern Mediterranean, Turkey has registered with the United Nations (Turkish notes verbales No. 2004/Turkuno DT/4739, dated 2 March 2004, and No. 2013/14136816/22273, dated 12 March 2013) that it has ipso facto and ab initio legal and sovereign rights in the maritime areas of the eastern Mediterranean that are west of meridian 32°16'18"E. It is Turkey's well-considered position that the outer limits of the Turkish continental shelf in the above-mentioned maritime areas follow the median line between the Turkish and Egyptian coastlines. The western terminal point of the median line will be determined in accordance with the outcome of future delimitation agreements in the Aegean Sea and in the Mediterranean among all States concerned, taking into account all relevant and special circumstances.

Accordingly, Turkey, in written form, raised her objections to and her non-recognition of the agreement between the Greek Cypriot Administration and the Arab Republic of Egypt on the "delimitation of the exclusive economic zone" of 17 February 2003.

I would like to reiterate that several of the so-called hydrocarbon exploration and exploitation licence areas declared by the Greek Cypriots partly remain within Turkey's continental shelf. I would also like to draw your attention to the fact that, in the latest round of the "international tender" mentioned in the aforementioned letter, one of the tendered areas lies directly on the Turkish continental shelf.

I would furthermore like to remind you that the views of the representative of the Turkish Republic of Northern Cyprus on the allegations of the Greek Cypriot

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Administration in the context of oil/natural gas exploration and exploitation activities have already been circulated to the General Assembly, on 19 December 2014 (see A/69/675-S/2014/915) and 5 June 2014 (see A/68/902).

In the light of the foregoing, Turkey refutes all the allegations contained in the letter of the Greek Cypriot representative.

I would be grateful if the present letter could be circulated as a document of the General Assembly, under agenda items 44 and 79 (a), and of the Security Council, and published in the next *Law of the Sea Bulletin*.

(*Signed*) Y. Halit **Çevik**
Permanent Representative

United Nations A/70/856

General Assembly

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Seventieth session
Agenda item 150
Financing of the United Nations Mission in the Central African Republic and Chad

Final performance report of the United Nations Mission in the Central African Republic and Chad

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the final performance report of the Secretary-General on the United Nations Mission in the Central African Republic and Chad (MINURCAT) (A/70/559). During its consideration of the report, the Committee met representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 26 February 2016.

2. The mandate of MINURCAT was established by the Security Council in its resolution 1778 (2007) and subsequently extended. It ended on 31 December 2010 in accordance with Council resolution 1923 (2010). Details on the administrative liquidation and on the final disposition of the assets of MINURCAT were contained in a separate report of the Secretary-General (A/69/596) and the views and comments of the Advisory Committee thereon were set out in its related report (A/69/841; see also General Assembly resolution 69/295).

Format and presentation

3. With regard to the changes in the presentation of tables 1 and 2 of the report of the Secretary-General, the Advisory Committee was informed that the first final performance reports for peacekeeping operations[1] prepared in compliance with the International Public Sector Accounting Standards (IPSAS) were being submitted by the Secretary-General at the current session. IPSAS required reporting on the amounts due from Member States (uncollected assessments) and provisions for any

[1] See those of the United Nations Integrated Mission in Timor-Leste (A/70/560) and the United Nations Supervision Mission in the Syrian Arab Republic (A/70/564), as well as MINURCAT.

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doubtful debts (other accounts receivable), which had been reflected in the final performance reports. **The Advisory Committee notes some differences in the presentation of the above elements in the final performance reports and recommends that the General Assembly request the Secretary-General to ensure that a consistent presentation be used across all such reports.**

II. Financial performance

4. Table 1 of the report of the Secretary-General provides information on cumulative income and expenditure and the fund balance from the inception of the Mission on 1 March 2007 to 30 June 2015, which shows that: (a) cumulative income/revenue amounted to $1,587,436,000, comprising assessed contributions ($1,550,944,000), interest income/investment revenue ($15,246,000) and miscellaneous income/other revenue ($21,246,000); (b) cumulative expenditure in the amount of $1,427,704,000 was offset by the cancellation of prior-period obligations ($56,149,000), resulting in net cumulative expenditure of $1,371,555,000; and (c) the unencumbered balance realized by MINURCAT amounted to $215,881,000, while credits returned to Member States totalled $178,165,000, leaving a fund balance of $37,716,000 as at 30 June 2015. Allowing for the provision of $3,677,000 against uncollected assessment and other accounts receivable, the net assets as reflected in the financial statements amounted to $34,039,000. Table 2 of the report, which summarizes assets, liabilities and the fund balance, shows that, as at 30 June 2015, the cash available to the Mission amounted to $33,961,000, reflecting the net result of cash assets ($50,753,000) less liabilities ($16,792,000).

5. The Advisory Committee was provided with the following update on the Mission's cash assets, liabilities and fund balance as at 31 December 2015:

(Thousands of United States dollars)

Description	*Amount*
Cash assets[a]	41 140
Less: liabilities	(7 091)
Cash available	**34 049**
Other receivables	–
Net assets (per financial statements)	**34 049**
Assessments and other accounts receivable (provided against under IPSAS)	3 569
Fund balance	**37 618**

[a] Comprises cash, cash equivalents and investments.

6. The Advisory Committee was informed that, as at 31 December 2015, the cash balance available in the special account for MINURCAT for return to Member States had increased to $34,049,000 (see the table above). The Committee expects that an update on the Mission's cash assets, liabilities and fund balance will be provided to the General Assembly at the time of its consideration of the present report.

III. Recommendation

7. The action to be taken by the General Assembly in connection with the final performance report for MINURCAT is contained in paragraph 7 of the report of the Secretary-General. **The Advisory Committee recommends that the cash balance, as provided to the General Assembly by the Secretary-General at the time of consideration of the present report, be credited to Member States.**

United Nations A/70/857

General Assembly

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Seventieth session
Agenda item 156
Financing of the United Nations Integrated Mission in Timor-Leste

Final performance report of the United Nations Integrated Mission in Timor-Leste

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the final performance report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (UNMIT) (A/70/560). During its consideration of the report, the Committee met representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 26 February 2016.

2. The mandate of UNMIT was established by the Security Council in its resolution 1704 (2006) and subsequently extended, most recently in resolution 2037 (2012). It ended on 31 December 2012. Details on the administrative liquidation and on the final disposition of the assets of UNMIT were contained in a separate report of the Secretary-General (A/69/589) and the views and comments of the Advisory Committee thereon were set out in its related report (A/69/851; see also General Assembly resolution 69/298).

Format and presentation

3. The comments of the Advisory Committee on changes in the presentation of the final performance reports of the Secretary-General for peacekeeping operations prepared in compliance with the International Public Sector Accounting Standards are contained in paragraph 3 of its report on the final performance report of the United Nations Mission in the Central African Republic and Chad (A/70/856).

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II. Financial performance

4. Table 1 of the report of the Secretary-General provides information on cumulative income and expenditure and the fund balance from the inception of the Mission on 25 August 2006 to 30 June 2015, which shows that: (a) cumulative income/revenue amounted to $1,308,293,000, comprising assessed contributions ($1,293,496,000), interest income/investment revenue ($6,380,000) and miscellaneous income/other revenue ($8,417,000); (b) cumulative expenditure from inception ($1,216,242,000) was offset by the cancellation of prior-period obligations ($15,744,000), resulting in net cumulative expenditure of $1,200,498,000; and (c) the unencumbered balance realized by UNMIT amounted to $107,795,000, while credits returned to Member States totalled $97,666,000, leaving a fund balance of $10,129,000 as at 30 June 2015. Allowing for the provision of $1,664,000 against uncollected assessment and other accounts receivable, the net assets as reflected in the financial statements amounted to $8,465,000. Table 2 of the report, which summarizes assets, liabilities and the fund balance, shows that, as at 30 June 2015, the cash available to the Mission amounted to $7,863,000, reflecting the net result of cash assets ($8,116,000) less liabilities ($253,000).

5. The Advisory Committee was provided with the following update on the Mission's cash assets, liabilities and fund balance as at 31 December 2015:

(Thousands of United States dollars)

Description	*Amount*
Cash assets[a]	8 414
Less: liabilities	(241)
Cash available	**8 173**
Other receivables	202
Net assets (per financial statements)	**8 375**
Assessments and other accounts receivable (provided against under the International Public Sector Accounting Standards)	1 797
Fund balance	**10 172**

[a] Comprises cash, cash equivalents and investments.

6. The Advisory Committee was informed that, as at 31 December 2015, the cash balance available in the special account for UNMIT for return to Member States had increased to $8,173,000 (see the table above). The Committee expects that an update on the Mission's cash assets, liabilities and fund balance will be provided to the General Assembly at the time of its consideration of the present report.

III. Recommendation

7. The action to be taken by the General Assembly in connection with the final performance report for UNMIT is contained in paragraph 7 of the report of the Secretary-General. **The Advisory Committee recommends that the cash balance, as provided to the General Assembly by the Secretary-General at the time of consideration of the present report, be credited to Member States.**

United Nations A/70/858

General Assembly

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2 May 2016

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Seventieth session
Agenda item 163
Financing of the United Nations Supervision Mission in the Syrian Arab Republic

Final performance report of the United Nations Supervision Mission in the Syrian Arab Republic

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the final performance report of the United Nations Supervision Mission in the Syrian Arab Republic (UNSMIS) (A/70/564). During its consideration of the report, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 26 February 2016.

2. The mandate of the United Nations Supervision Mission in the Syrian Arab Republic was established by the Security Council in its resolution 2043 (2012) as from 21 April 2012 for an initial period of 90 days. By its resolution 2059 (2012) of 20 July 2012, the Council renewed the mandate of UNSMIS for a final period of 30 days, until 19 August 2012. Details on the administrative liquidation and on the final disposition of the assets of UNSMIS were contained in a separate report of the Secretary-General (A/69/594 and Corr.1) and the views and comments of the Advisory Committee thereon were set out in its related report (A/69/847; see also General Assembly resolution 69/304).

Format and presentation

3. The comments of the Advisory Committee on the changes in the presentation of the first final performance reports of the Secretary-General for peacekeeping operations prepared in compliance with the International Public Sector Accounting Standards are contained in its report on the final performance report of the United Nations Mission in the Central African Republic and Chad (MINURCAT) (see A/70/856, para. 3).

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II. Financial performance

4. Table 1 of the report of the Secretary-General (A/70/564), which provides information on cumulative income and expenditure of the Mission from inception on 21 April 2012, and fund balance as at 30 June 2015, shows that: (a) cumulative income/revenue amounted to $24,387,000, comprising assessed contributions ($24,001,000), interest income/investment revenue ($41,000) and miscellaneous income/other revenue ($345,000); (b) cumulative expenditure in the amount of $24,646,000 was offset by the cancellation of prior-period obligations ($2,592,000), resulting in net cumulative expenditure of $22,054,000; and (c) the unencumbered balance realized by UNSMIS amounted to $2,333,000. Allowing for the provision of $373,000 against other accounts receivable, the net assets as reflected in the financial statements amounted to $1,960,000. Table 2 of the report, which summarizes assets, liabilities and fund balance, shows that, as at 30 June 2015, cash available to the Mission amounted to $1,418,000, reflecting the net result of cash assets ($1,892,000) less liabilities ($474,000).

5. The Advisory Committee was provided with the following update on the Mission's cash assets, liabilities and fund balance as at 31 December 2015.

Table 1
Cash assets, liabilities and fund balance as at 31 December 2015
(United States dollars)

Description	*Amount*
Cash assets[a]	2 242 000
Less: liabilities	(448 000)
Cash available	**1 794 000**
Assessment and other receivables	198 000
Net assets (per financial statements)	**1 992 000**
Other accounts receivable (provided against, under the International Public Sector Accounting Standards)	373 000
Fund balance	**2 365 000**

[a] Comprises cash, cash equivalents and investments.

6. The Advisory Committee was informed that as at 31 December 2015, the cash balance available in the special account for UNSMIS for return to Member States had increased to $1,794,000 (see table 1 above). The Committee expects that an update of the Mission's cash assets, liabilities and fund balance will be provided to the General Assembly at the time of its consideration of the present report.

Other matters

7. In paragraph 8 of its report on the final disposition of the assets of UNSMIS (A/69/847), the Advisory Committee noted that only 30 of the total of 46 armoured vehicles transferred from UNSMIS to the Office of the Joint Special Representative of the United Nations and the League of Arab States for Syria had been inventoried

as at 31 December 2013. Upon enquiry regarding the status of the armoured vehicles, the Committee was informed that upon closure of UNSMIS, the 46 armoured vehicles were transferred to the Office of the Joint Special Representative, now the Office of the Special Envoy of the Secretary-General for Syria. Subsequently, 30 armoured vehicles were transferred to the United Nations Disengagement Observer Force (UNDOF); 1 armoured vehicle was transferred to the United Nations Truce Supervision Organization (UNTSO); and the remaining 15 armoured vehicles were retained by the Office of the Special Envoy, one of which was recategorized in inventory as an ambulance, in keeping with its purpose and nature. The Committee was also provided with the following table summarizing the status of the transfer of the armoured vehicles.

Table 2
Status of the transfer of armoured vehicles

	Quantity
Transferred to the United Nations Disengagement Observer Force (UNDOF)	30
Transferred to the United Nations Truce Supervision Organization (UNTSO)	1
Retained in the Office of the Joint Special Representative	14
Retained in the Office of the Joint Special Representative (ambulance)	1
Total	**46**

8. Upon enquiry, the Advisory Committee was provided with a breakdown of the assets formerly held by UNSMIS, by residual or carrying value, as summarized in the table below.

Table 3
Carrying value (residual value) of assets transferred to other missions
(United States dollars)

Mission	*Residual value*
Office of the Joint Special Representative	4 750 023
United Nations reserve	1 883 027
UNDOF	1 874 375
UNTSO	849 463
Total	**9 356 888**

III. Recommendation

9. The action to be taken by the General Assembly in connection with the final performance report for UNSMIS is contained in paragraph 7 of the report of the Secretary-General (A/70/564). **The Advisory Committee recommends that the cash balance, as provided to the General Assembly by the Secretary-General at the time of the consideration of the present report, be credited to Member States.**

United Nations A/70/859

General Assembly

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Seventieth session
Agenda item 113 (c)
Elections to fill vacancies in subsidiary organs and other elections

Election of the Executive Director of the United Nations Environment Programme

Note by the Secretary-General

1. The General Assembly, in section II, paragraph 2, of its resolution 2997 (XXVII), decided that the secretariat of the United Nations Environment Programme (UNEP) should be headed by the Executive Director of the Programme, who should be elected by the Assembly, on the nomination of the Secretary-General, for a term of four years.

2. In its decision 60/409, on the proposal of the Secretary-General, the General Assembly elected Achim Steiner (Germany) as Executive Director of UNEP for a four-year term of office, beginning on 15 June 2006 and ending on 14 June 2010. In its decision 64/420, on the proposal of the Secretary-General, the Assembly re-elected Mr. Steiner for an additional four-year term, beginning on 15 June 2010 and ending on 14 June 2014. In its decision 68/416, on the proposal of the Secretary-General, the Assembly re-elected Mr. Steiner for an additional two-year term, beginning on 15 June 2014 and ending on 14 June 2016.

3. Following a thorough review and evaluation of the candidates proposed to succeed Mr. Steiner, the Secretary-General wishes to nominate Erik Solheim (Norway) for election as Executive Director of UNEP for a term of four years, beginning on 15 June 2016 and ending on 14 June 2020.

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Security Council

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Seventieth session
Agenda item 30
Report of the Security Council

Security Council
Seventy-first year

Letter dated 24 April 2016 from the Permanent Representative of Morocco to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter addressed to the Secretary-General from the Minister for Foreign Affairs and Cooperation, Mr. Salaheddine Mezouar, reiterating the categorical opposition of the Kingdom of Morocco to any role or involvement whatsoever of the African Union in the question of the Moroccan Sahara, as well as its strongest rejection of the repeated attempts by the African Union to interfere in the consideration of that matter by the Security Council (see annex).

I should be grateful if you would have the present letter and its annex issued as a document of the General Assembly, under agenda item 30, and of the Security Council.

(*Signed*) Omar **Hilale**
Ambassador
Permanent Representative

16-07244 (E) 100516 110516

Please recycle

Annex to the letter dated 24 April 2016 from the Permanent Representative of Morocco to the United Nations addressed to the Secretary-General

With regard to the letter addressed to you on 16 April 2016 by the President of the African Union Commission on the question of the Moroccan Sahara, the Kingdom of Morocco would like to reiterate its categorical opposition to any role or involvement of the African Union in this issue.

The Kingdom of Morocco reiterates its strongest rejection of the repeated attempts by the African Union to interfere in the consideration of that question by the Security Council, in particular, the unjustified and unwarranted request for the African Union "Special Envoy", Mr. Joaquim Chissano, to interact with the Council.

The non-negotiable position of Morocco against any involvement of the African Union in the issue of the Moroccan Sahara has already been brought to your attention in the letter addressed to you by His Majesty King Mohammed VI in June 2013, as well as in the letters by the Deputy Minister for Foreign Affairs and Cooperation, Ms. M'barka Bouaida, on 26 December 2013, by the Permanent Representative of Morocco to the United Nations on 9 June and 1 July 2014, and in my letter dated 6 April 2015.

Allow me to recall the legitimate reasons behind the position of the Kingdom of Morocco:

- The consideration of the question of the Moroccan Sahara falls within the exclusive remit of the United Nations, following the failure of the Organization of African Unity to deal with the dispute.
- The negotiation process to bring about a mutually acceptable political solution to the issue of the Moroccan Sahara is held under the exclusive auspices of the United Nations, in accordance with successive Security Council resolutions. The Security Council has, rightly, never given any role or mandate whatsoever to the African Union, or that organization's Peace and Security Council, in the political negotiations led by the United Nations.
- Through its attempts to revive obsolete proposals and plans considered unachievable by the United Nations and rejected by the Security Council, the African Union clearly seeks to undermine the ongoing United Nations efforts to resolve this regional dispute.
- The credibility of the African Union on the issue of the Moroccan Sahara is compromised given its position which completely contradicts Security Council resolutions calling for a negotiated and mutually acceptable political solution, based on a realistic approach and a spirit of compromise.
- The positions adopted by the African Union on the question of the Moroccan Sahara reflect those of Algeria and the Frente Polisario, notwithstanding the opposition and reservations of several African member States. This blatant bias, at the instigation of Algeria, is kept alive by the African Union secretariat, in particular its Peace and Security Department, which has, for several years now, been headed by a succession of Algerian diplomats.

- The latest decisions of the Peace and Security Council of the African Union, which are hostile to Morocco, inherently biased and out of step with the realities of the case, clearly demonstrate that the Union lacks all neutrality on the question of the Moroccan Sahara and that it is incapable of playing any role or contributing in any way to the issue.

- The African Union prejudged, in a biased manner, the outcome of the political negotiations under the auspices of the United Nations, by admitting, within its membership, an entity that has no attribute of sovereignty.

For all these reasons, I would like to underline that the attempts at sabotage by the African Union and its interference in this matter pose a serious threat to the entire political process conducted under the auspices of the United Nations, which has the support of all the parties and the international community, including the African countries.

Consequently, Morocco considers that any attempts to involve or interact with the African Union in this matter would be an unacceptable and detrimental intrusion that would be fatal to the efforts of the United Nations concerning the Moroccan Sahara.

The Kingdom of Morocco remains actively committed to the ongoing negotiations towards a lasting and mutually acceptable political solution to this regional dispute, under the exclusive auspices of the United Nations and in accordance with successive Security Council resolutions.

(*Signed*) Salaheddine **Mezouar**

United Nations A/70/861–S/2016/420

General Assembly
Security Council

Distr.: General
6 May 2016

Original: English

General Assembly
Seventieth session
Agenda item 85
The rule of law at the national and international levels

Security Council
Seventy-first year

Letter dated 5 May 2016 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a communiqué of the Coordinating Bureau of the Non-Aligned Movement on the violation of the principle of sovereign immunity of States by the United States of America (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 85, and of the Security Council.

(*Signed*) Gholamali **Khoshroo**
Ambassador
Permanent Representative

16-07437 (E) 100516

Please recycle

Annex to the letter dated 5 May 2016 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

New York, 5 May 2016

Communiqué of the Coordinating Bureau of the Non-Aligned Movement in rejection of unilateral actions by the United States in contravention of international law, in particular the principle of State immunity

The Coordinating Bureau of the Non-Aligned Movement rejects the illegal practice of the United States in defying international law by allowing and facilitating private plaintiffs to bring civil action before United States courts against sovereign States, including the Islamic Republic of Iran, leading to the award of default judgments against them and their national institutions. Legislation by the United States Congress to pave the way for illegally confiscating foreign assets in the United States and the actions by the United States Government to unlawfully hold them enable United States courts to issue groundless rulings.

The Bureau objects to United States defiance of international law through the unilateral waiving of the sovereign immunity of States and their institutions in total contravention of the international and treaty obligations of the United States and on a spurious legal ground that the international community does not recognize. This practice runs counter to the most fundamental principles of international law, in particular the principle of sovereign immunity as one of the cornerstones of the international legal order and a rule of customary international law — a principle whose primacy is recognized by the community of nations, all legal systems and the International Court of Justice and which was most recently codified in the United Nations Convention on Jurisdictional Immunities of States and Their Property.

The Bureau calls upon the United States of America to respect the principle of State immunity, and reiterates that failing to do so would have adverse implications, including uncertainty and chaos in international relations and the undermining of the rule of law at the international level, and would constitute an internationally wrongful act, which entails international responsibility.

The Bureau seizes this opportunity to reiterate the call of the Non-Aligned Movement to uphold dialogue and accommodation over coercion and confrontation as well as to promote peaceful settlement of disputes.

United Nations A/70/862–S/2016/424

General Assembly
Security Council

Distr.: General
6 May 2016

Original: English

General Assembly
Seventieth session
Agenda item 34
Prevention of armed conflict

Security Council
Seventy-first year

Letter dated 5 May 2016 from the Permanent Representatives of France, the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General

On behalf of the Co-Chairs of the Minsk Group of the Organization for Security and Cooperation in Europe (OSCE) (the Russian Federation, the United States and France), and in reference to the letter dated 14 April 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General (A/70/830-S/2016/346), we have the honour to transmit herewith for your information a copy of a letter from the Co-Chairs to the Permanent Representative of Azerbaijan to OSCE, delivered to the delegation of Azerbaijan to OSCE on 13 April (see annex).

We would be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(*Signed*) François **Delattre**
Permanent Representative of France

(*Signed*) Vitaly I. **Churkin**
Permanent Representative of the Russian Federation

(*Signed*) Samantha **Power**
Permanent Representative of the United States

16-07462 (E) 100516

Please recycle

Annex to the letter dated 5 May 2016 from the Permanent Representatives of France, the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General

Letter dated 12 April 2016 from the Co-Chairs of the Minsk Group addressed to the Permanent Representative of Azerbaijan to the Organization for Security and Cooperation in Europe

Since large-scale military incidents began on 2 April 2016 in the Nagorno-Karabakh conflict zone, the Organization for Security and Cooperation in Europe Minsk Group Co-Chairs, along with senior representatives of the Co-Chair countries and other members of the international community, have emphatically called on the sides to strictly adhere to the 1994 ceasefire agreement, as well as the 1995 agreement on strengthening the ceasefire in the Nagorno-Karabakh conflict. We welcome the 5 April 2016 agreement brokered by the Russian Federation on restoring the ceasefire regime.

We call on the sides not to permit violations of the aforementioned 1994 and 1995 agreements, whose terms do not expire and which, as before, make up the foundation of the cessation of hostilities in the conflict zone.

We are firmly convinced that the sides must immediately enter into negotiations that can lead to a comprehensive settlement. As mediators in the negotiation process, we reaffirm our readiness to assist the sides in any way possible to achieve a comprehensive settlement.

(*Signed*) Igor **Popov**
Co-Chair, Russian Federation

(*Signed*) James **Warlick**
Co-Chair, United States of America

(*Signed*) Pierre **Andrieu**
Co-Chair, France

United Nations A/70/863–S/2016/405

General Assembly
Security Council

Distr.: General
4 May 2016

Original: English

General Assembly
Seventieth session
Agenda items 34, 68, 70, 71 and 72

Prevention of armed conflict

Promotion and protection of the rights of children

Elimination of racism and racial discrimination, xenophobia and related intolerance

Right of peoples to self-determination

Promotion and protection of human rights

Security Council
Seventy-first year

Letter dated 28 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I am writing to draw your attention to gross violations of human rights and international humanitarian law committed by Azerbaijan in the course of its recent large-scale military aggression against Nagorno-Karabakh. I hereby transmit the interim report of the Nagorno-Karabakh Ombudsman on atrocities committed by Azerbaijani military forces against the civilian population of the Nagorno-Karabakh Republic and servicemen of the Nagorno-Karabakh Defence Army, from 2 to 5 April 2016 (see annex).[1]

The report documents in detail and selected images most shocking evidence of heinous atrocities committed by Azerbaijan. Disturbing as they are, those acts call for unequivocal condemnation by the international community and an urge to bring the perpetrators to justice.

I request that the present letter and its annex be circulated as a document of the General Assembly, under agenda items 34, 68, 70, 71, 72, and of the Security Council.

(*Signed*) Zohrab **Mnatsakanyan**
Ambassador
Permanent Representative

[1] The annex is being circulated in the language of submission only.

Please recycle

A/70/863
S/2016/405

Annex to the letter dated 28 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Nagorno Karabakh Republic (Artsakh Republic)
Human Rights Defender (Ombudsman)

Interim Public Report

On Atrocities Committed by Azerbaijani Military Forces Against the Civilian Population of the NKR and the Servicemen of the NKR Defence Army on 2-5April 2016

Dear Colleagues,

On April 02, 2016 Azerbaijani military forces breached the Ceasefire Agreement of 1994 by a well-planned large-scale massive attack. The most serious and bloody military operation along the entire NKR-Azerbaijani line of contact for the last 20 years was initiated, that resulted in gross mass violations of human rights.

Today, the Interim Public Report of the NKR Ombudsman on Atrocities Committed by Azerbaijani Military Forces against the Civilian Population of the NKR and the Servicemen of the NKR Defence Army on April 2-5, 2016 has been published.

The Report is in English and it analyses the Azerbaijani hatred policy towards people of Armenian origin and its horrific consequences that violate all international human rights standards with certain examples of torture and humiliation. The Report provides international human rights organizations' objective assessments of Azerbaijan's policy of inciting hatred and violence towards people of Armenian ethnicity. It also presents hate speech in the Azerbaijani mass media and social networks. The Report also reveals Azerbaijani high officials and other public persons activities aimed at spreading hate speech and incitement to violence.

The Report presents the violations of international human rights law and international humanitarian law, cases of attacks on civilian population of NKR, cases of inhuman treatment, as well as cases of torture and mutilation of the NKR Defence Army Servicemen.

The Report will be sent to international human rights organizations, ombudsmen's international institutions and to respective foreign institutions.

I would like to thank the human rights NGOs of the Republic of Nagorno Karabakh for their assistance in drafting the Report, as well as all mass media representatives that have revealed in their publications the brutal cases of gross human rights violations.

18+ Warning:

The Report contains pictures and descriptions of brutality and mutilation committed by Azerbaijani military forces. The report reflects pictures largely disseminated in the media.

Sincerely,

Yuri Hayrapetyan
NKR Human Rights Defender

Shushi, 21.04.2016

NAGORNO KARABAKH REPUBLIC (ARTSAKH REPUBLIC)

HUMAN RIGHTS DEFENDER (OMBUDSMAN)

INTERIM PUBLIC REPORT

ATROCITIES COMMITTED BY AZERBAIJANI MILITARY FORCES AGAINST THE CIVILIAN POPULATION OF THE NAGORNO KARABAKH REPUBLIC AND SERVICEMEN OF THE NAGORNO KARABAKH DEFENCE ARMY ON 2-5 APRIL 2016

SHUSHI
APRIL 2016

Foreword

1. The People of Nagorno Karabakh are Europeans. However, citizens of the Nagorno Karabakh Republic (NKR) have to face challenges that are totally alien to the core European values and the human rights culture.

2. Following the collapse of the USSR, the former Soviet nation-state entity, known as the Nagorno Karabakh Autonomous Region, as well as the Armenian-inhabited Shahumian region, merged to form the Nagorno Karabakh Republic (NKR) (also called as Artsakh), with its capital Stepanakert.

3. On September 02, 1991 NKR declared its independence in full compliance with the fundamental norms and principles of international law. Ever since, the Republic has consistently pursued a continuous policy of maintaining peace and stability in the Southern Caucasus region. The NKR public authorities and people follow the international human rights standards and apply these standards in the country's legal framework, as well as their day-to-day life.

4. On December 10, 1991, prior to the collapse of the Soviet Union, a referendum was held in Nagorno Karabakh with the overwhelming majority of the participants (99.98%) voting in favour of full independence from Azerbaijan. On December 28, 1991 the first parliamentary elections of NKR were held, and the first NKR Government was formed, accordingly.

5. The NKR authorities commenced their functioning under the conditions of total blockade, war and aggression unleashed by Azerbaijan. The active warfare ended in May, 1994 by a Ceasefire Agreement. Despite the existence of the Agreement and the commitment of the parties to refrain from the use of force and resolve the issue through negotiations on setting legally binding mechanisms, Azerbaijan has been periodically and unilaterally breaching the Ceasefire Agreement. However, those breaches were until recently of a relatively low scale.

6. In the early morning hours of April 02, 2016 the Azerbaijani military forces breached the Ceasefire Agreement of 1994 again through a well-planned large-scale massive attack. The most serious and bloody military operation along the entire NKR-Azerbaijani line of contact for the last 20 years was initiated.

7. The Azerbaijani side deployed tanks, military helicopters, heavy artillery, rocket launchers, unmanned combat aerial vehicles (including *Smerch* 300mm MLRS, TOS-1 *Solntsepyok* multiple rocket launcher, IAI Harop drones, etc.), and other deadly weapons.

8. In blatant total disregard of obligations stemming from the applicable provisions of international humanitarian and human rights law, the Azerbaijani military forces targeted the peaceful population, especially children and the elderly, as well as civilian objects, including schools and kindergartens.

9. The most horrifying facts are the killings of peaceful civilians of Nagorno Karabakh through cruel and inhuman methods of execution and mutilation. Similar practices of humiliation were applied in relation to members of the NKR Defence Army. Moreover, some of the NKR soldiers were, along with other forms of dismemberment, also subjected to beheading.

10. As further detailed in this report, the acts of brutality were committed against peaceful civilians of the NKR solely due to their Armenian ethnicity. Such conduct is in line with Azerbaijani Government's consistent and purposeful policy of inciting hatred and racial discrimination against Armenians.

11. The ISIS-style atrocities, deeply rooted in Azerbaijan's state-supported propaganda of hatred and violence, gravely endanger the European human rights system as a whole. This situation threatens to escalate largely with unpredictable consequences if not effectively prevented and duly acted upon by the international community.

I. Hatred and Discriminatory Policy towards People of Armenian Ethnicity and Its Horrific Consequences

A) Spreading Hate Speech and Incitement to Violence

12. Discrimination against Armenians and violation of their rights by Azerbaijani authorities has deep historical roots. In the late 80's, with the revival of the Nagorno Karabakh movement, the anti-Armenian propaganda was intensified and led to pogroms, killings, and ethnic cleansings. Since then, statements of the Azerbaijani authorities have been constantly full of Armenophobic hatred and propaganda, starting at the highest levels of the governmental hierarchy. This is a public and aggressive policy aimed at increasing incitement to hatred and investing hostile thoughts or feelings towards ethnic Armenians.

13. This policy and offensive activities carried out by Azerbaijan are in violation of the principles of international law as enshrined in the UN Charter of 1945, the UN International Convention on the Elimination of all Forms of Racial Discrimination of 1965, the International Covenant on Civil and Political Rights of 1966, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States of 1970, the Helsinki Final Act of 1975, and other international documents. Thus, Article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination calls States Parties to strongly condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention. Article 20, paragraph 2 of the International Covenant on Civil and Political Rights states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

14. The United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed its concern that, even though the Government of Azerbaijan maintained that ethnic

Armenians were not discriminated against, there were reports of such discrimination and that most Armenians in Azerbaijan concealed their ethnic origin to avoid discrimination[1].

15. The CERD also raised the following issues in its summary record on Azerbaijan: (i) the lack of awareness of everyday racial discrimination and the tendency to address only the most severe and extreme situations of racism and racial discrimination (UN 15 Mar. 2005, Para. 34); (ii) the common occurrence of hate speech and derogatory public statements against Armenians (ibid., Para 35); (iii) the lack of intervention on the problem of Armenians and other ethnic minorities losing their property to illegal occupants (ibid., Para. 39); (iv) the ambiguity as to what specific acts are included under the new provision for racial discrimination in the Criminal Code (ibid., Para. 43).

16. Racial discrimination against Armenians is also established by the Council of Europe Commission against Racism and Intolerance (ECRI). Thus, the first report on Azerbaijan of June 28 of 2002 *inter alia* indicates that Armenians living on the territory of Azerbaijan under the effective control of Azerbaijani authorities tend to shield their ethnic identity or, in any event, avoid exposing it publicly[2]. The report indicates that hate speech and derogatory public statements against Armenians take place routinely, and the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived as an insult, as illustrated by trials for slander and insult opened by public figures against persons who had publicly and falsely alleged their Armenian ancestry (ibid., Para. 52).

17. The report further emphasizes the discrimination against Armenians in different fields, including employment and the exercise of property rights. Judicial proceedings opened by Armenians trying to protect their property have reportedly not led to the restoration of their rights. According to the mentioned document, Armenians are reported to have suffered from harassment at schools and at the workplace and to have been refused pensions or renewal of permits to live in Baku by local governmental authorities (ibid., Para. 52).

[1] CERD/C/A/E/CO/4 14 Apr. 2005, para. 10.
[2] Report on Azerbaijan, adopted on 28 June 2002, European Commission against Racism and Intolerance, para. 51.

18. In its report of 15 December 2006 on Azerbaijan, ECRI states that the situation concerning Armenians living in Azerbaijan has not improved at all[3]. The second ECRI Report states that Azerbaijani authorities have not demonstrated their will to tackle the problem of racism and racial discrimination against Armenians. According to the ECRI, Armenians experience discrimination in their daily lives, particularly in access of public services, e.g. some officials merely refuse to proceed with request from Armenians when they discover their ethnic origin. The report establishes that discrimination in some cases amounts to harassment which prevents the persons concerned from exercising their basic rights, e.g. the right to pension allowance or the right to work (ibid., Para. 107).

19. As a consequence of the mentioned discriminatory attitude and inflammatory statements against Armenians many of Armenians keep a low profile in Azerbaijan, trying as much as possible to avoid drawing attention to them (ibid., Para. 111).

20. As further mentioned in the reports of ECRI on Azerbaijan, the discriminatory attitude and climate affects also Azerbaijani individuals and NGOs assisting Armenians in exercising their basic rights. Those individuals and NGOs keep receiving anonymous threats, are becoming victims of defamation campaigns in the media and are harassed by authorities. Azerbaijani individuals travelling to Armenia are subjected to threats, harassment and attacks on their goods, persons on the grounds that they "betray their country" (ibid., Para. 112).

21. The concerns and allegations of racial discrimination against Armenians are again reiterated by ECRI in its recent report on Azerbaijan adopted on March 23, 2011. In that report, ECRI states that the negative climate against Armenians continues, and the Azerbaijani authorities have not taken any step to combat the racial discrimination against Armenians.

22. Particularly, in this report ECRI states that the Commission is still deeply concerned about the fact that the constant negative official and media discourse helps to sustain a negative climate of opinion regarding people of Armenian ethnicity. This prejudice is so ingrained that describing someone as an Armenian in the media is considered by some people - including by certain Armenians themselves - to qualify as an insult that justifies initiating

[3] Report on Azerbaijan, adopted on 15 December 2006, European Commission against Racism and Intolerance, para. 107

judicial proceedings against the persons making such statements. Further, ECRI underlines the seriousness of this situation, where it seems that persons belonging to the group discriminated against in this way may themselves have interiorized this discriminatory attitude[4].

23. All the mentioned reports evidence the heavy racial discrimination against Armenians in general. The negative climate against Armenians is increasing within Azerbaijani society due to inflammatory and hate speeches and statements made by the media, different individuals, and high-ranking officials.

24. The fact of discriminatory policy and racism by Azerbaijan towards Armenians has been pointed out also by the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities. In its opinions on Azerbaijan the Advisory Committee pointed out the incidents of "hostility and discrimination" against Armenians, existence of anti-Armenian sentiments in Azerbaijan and recommended Azerbaijan to take steps for eliminating the discriminatory attitude towards Armenians[5]. Besides, the Advisory Committee mentioned that persons belonging to some national minorities, and especially those belonging to the Armenian minority, continue to face widespread discrimination in various fields and hostility, often triggered by the media. Access of these persons to effective remedies, including legal remedies, against discrimination is very limited as there seem to be very limited awareness on discrimination-related issues in the judiciary and in the police, but also in the population at large. The legislation against discrimination does not seem to be applied and the case-law related to discrimination on grounds of ethnic origin is non-existent[6]. Despite this absence of case-law and reported claims, the Advisory Committee has, however, collected information from various sources indicating that persons belonging to the Armenian minority are facing widespread discriminations in various spheres. These include obstacles in access to public employment, housing, public services, payment of pensions and other social benefits and difficulties in restitution of properties. The Advisory Committee is deeply concerned by

[4] Report on Azerbaijan, adopted on 23 March 2011, European Commission against Racism and Intolerance, Para. 99.

[5] Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities, Opinion on Azerbaijan (adopted on 22 May 2003), ACFC/INF/OP/I(2004)001.

[6] Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Azerbaijan (adopted on 9 November 2007), ACFC/OP/II(2007)007, Para. 16.

statements made during its visit by representatives of the authorities. They have either denied that ethnic Armenians face discrimination problems in Azerbaijan, or attempted to justify discriminations against them by the absence of a solution to the conflict of Nagorno Karabakh[7].

25. The analysis of the above-mentioned international standards and reports shows that international organizations clearly emphasize the existence of extreme racism, animosity, and hatred towards ethnic Armenians, as well as the persistence of an anti-Armenian atmosphere.

B) Hate Speech in the Azerbaijani Mass Media and Social Networks

26. The monitoring of the Azerbaijani mass media and social networks reveals that they are full of hate speech, violent publications, and comments. To be specific, the Internet media are full of articles, statements, stories, news, and other materials the sole aim of which is to spread hatred and animosity against Armenians in general. This sustains and increases the negative climate in society towards Armenians, by constantly inciting hatred against them.

27. For example, an article recently published in the online newspaper *vesti.az*, dedicated to the NKR Human Rights Defender (Ombudsman) statements on atrocities committed by the Azerbaijani military forces, openly scoffs at the Ombudsman's activities, as well as at the fact that NKR may even have an Ombudsman. This article is full of extreme hate speech by using words like "an Armenian liar", "poor Yurik", etc.

28. Furthermore, the same media article calls Artsakh a large psychiatric hospital full of patients[8]. According to another recent media article, "Armenian expansionism is as rotten as Kurginyan's[9] teeth"[10].

29. Apart from publications of analytical and information nature, cultural life is full of racist speech and anti-Armenian comments. On April 15, 2016, a case of deep anti-Armenian discrimination was registered during one of the TV shows broadcast in Azerbaijan by channel TV8. Namely, a female Turkish singer was harshly criticized for the mere fact that, in her colorful dress, the Azerbaijani social network users found colors of Armenian flag. This part of

[7] Ibid., Para. 39.
[8] http://vesti.az/news/288540.
[9] Mr. Sergey Kurginyan is a Russian political scientist and public figure of Armenian origin.
[10] http://news.day.az/politics/767794.html.

her dress was highlighted and largely discussed in social media with abundant hatred and violent comments. However, the ludicrous fact is that, in reality, the colors of the singer's dress did not contain colors of the Armenian flag (the sequence of colours is different). Nevertheless, this example shows how deep the roots of Armenophobia are: even an approximate or remote resemblance with anything Armenian provokes harshly violent and hatred calls[1].

30. Given the fact that, in Azerbaijan, the media and the Internet are heavily controlled by the Government, it is evident that the hatred and racism expressed in the media are carried out, as a minimum, with the knowledge and complacency of the relevant governmental authorities.

31. This fact is confirmed by ECRI reports on Azerbaijan, which provide that the situation regarding the media has scarcely changed since its previous report. It continues to be reported that the media are lacking in objectivity and help to spread a negative image of certain ethnic/national or religious minorities, in particular through the way they report on the conflict over Nagorno Karabakh (Para 56)[2].

32. Those who object to state led anti-Armenian approach, including free media representatives and human rights defenders, are prosecuted and sent to prisons. All these people know that they will find themselves in dilapidated prisons and other closed institutions with inhuman and brutal conditions[3] even for one positive word about Armenians.

33. The mentioned facts have been further confirmed by international human rights bodies. For example, the European Court of Human Rights judgment in the case of Fatullaev v. Azerbaijan establishes that Eynulla Fatullaev (the applicant) visited Nagorno Karabakh in his capacity of a journalist. After returning from NKR, E. Fatullayev, published an article where he discussed an assault on the town of Khojaly in the course of the war in Nagorno Karabakh. A year after the publication of the article, postings about the killing of Khojaly inhabitants by

[1] https://www.youtube.com/watch?v=PoHyxCmtgc, https://www.youtube.com/watch?v=IQTQb4HQp9M.

[2] https://www.coe.int/t/dghl/monitoring/ecri/country-by-country/azerbaijan/AZE_CbC_IV_2011_019_ENG.pdf.

[3] Azerbaijan is a country of torture, degrading treatment and inhuman punishment, although this country does everything to hide their black pages from international society. The very relevant examples are the reports of the Council of Europe Committee for the Prevention of Torture (CPT) that are being kept confidential because Azeri authorities do not give their consent for their publication (http://www.cpt.coe.int/en/states/aze.htm).

Azerbaijani soldiers were made on the "Azeri TriColor" website made from a forum account under the username Eynulla Fatullayev. As a result of these activities, he was prosecuted and convicted in Azerbaijan. Besides, a civil was brought against him. The European Court of Human Rights established a violation of Article 10 of the European Convention on Human Rights[14].

34. Examples of internationally-recognized facts prove that this policy is aimed at creating a closed society with no possibility of criticism or any alternative way of thinking, where the media are fully controlled by the Government. The results of this purposeful policy are already very clear, and it will only continue to escalate and become increasingly more dangerous.

C) Hate Speech and Incitement to Violence by Azerbaijani High-Ranking Officials and Other Public Persons

35. The consistent policy of spreading hatred and violence against Armenians has been implemented for a long period of time already. This is strongly supported by the political leadership of Azerbaijan. High-ranking officials spice up their speeches and activities with furious anti-Armenian propaganda in society, especially through the media and the Internet.

36. A very explicit example is the appalling case of a member of the Azerbaijani army, Ramil Safarov, killing Gurgen Margaryan, a representative of the Armenian military, in Hungary in 2004. In January 2004 representatives of the two countries' military forces arrived in Budapest, Hungary to participate in a three-month English language course organized within the framework of the NATO-sponsored "Partnership for Peace" programme. The course included two participants from each of the former Soviet Socialist Republics, including two officers from the Azerbaijani army. The participants were all accommodated on the campus of the Hungarian University of National Defence[15].

37. At around 5 a.m. on 19 February 2004, Ramil Safarov murdered Gurgen Margaryan while he was asleep by decapitating him with sixteen blows of an axe. R. Safarov then tried to

[14] Fatullaev v. Azerbaijan, Judgment of October 4, 2010, no 40984/07 (http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98401).

[15] http://hudoc.echr.coe.int/eng#{"fulltext":["mahuchyan"],"documentcollectionid2":["COMMUNICATEDCASES"],"itemid":["001-160675"]}.

break down the door of another Armenian military officer Hayk Makuchyan's room yelling "Open the door, you Armenian! We will cut the throats of all of you!" He was ultimately stopped by the police who had meanwhile arrived at the scene. In subsequent criminal proceedings, Ramil Safarov admitted that he had murdered Gurgen Margaryan only on the ground of his Armenian origin and he showed no remorse for the committed crimes. On 13 April 2006 the Budapest City Court found Ramil Safarov guilty of premeditated murder of Gurgen Margaryan and preparation for murder of another Armenian soldier, Hayk Makuchyan. R.Safarov was sentenced to life imprisonment, with a possibility of conditional release after 30 years[16].

38. However, on August 31, 2012 Ramil Safarov was transferred to Azerbaijan. R. Safarov was immediately granted a presidential pardon, set free, promoted to the rank of a major during the course of a public ceremony, awarded eight years of salary arrears, and given a flat. He was declared a National Hero of Azerbaijan by virtue of the fact that he killed a person of Armenian origin.

39. This fact was criticized by the international community and perceived as a dangerous step that reflects hatred and discriminatory policy of the Azerbaijani leadership towards Armenians. For example, according to the media article of September 04, 2012, published in *The New York Times*, "Mr. Safarov, who was a boy during the war with Armenia, embodies the hatred that has pooled deeply in the public as leaders have sat through rounds of faltering negotiations"[17]. On September 05, 2012 an article published by *Aljazeera.com* under "The axe murderer who became a Facebook hero" heading states that "The Safarov case serves as a warning to the West. (...) The Safarov case shows that the open internet is also a useful venue for the spread of nationalism rooted in bigotry, vengeance and pain"[18].

40. In contrast, the same fact was wholeheartedly welcomed by all parts of Azerbaijani society and was largely spread through the mass media. It was agitated that killing any person of Armenian nationality is an honorable murder; an example of patriotism for the youth.

[16] Ibid.
[17] http://www.nytimes.com/2012/09/05/world/europe/pardon-reignites-azerbaijan-armenia-tensions.html?_r=0.
[18] http://www.aljazeera.com/indepth/opinion/2012/09/201293953565974.html.

41. The most worrying thing is that a current member of Azerbaijani delegation to the Parliamentary Assembly of the Council of Europe (PACE), Ganira Pashaeva (a member of the Azerbajani Parliament of that period) declared: "Ramil Safarov has been released! Congratulations, Azerbaijani people! We are grateful to the President of the country for returning R.Safarov to Azerbaijan and for pardoning him"[19].

42. Another disturbing fact is that the current Ombudsman of Azerbaijan Elmira Suleymanova declared that Ramil Safarov should become an exemplary model of patriotism for the Azerbaijani youth[20]. She also mentioned that it has become yet another proof of humanism of President Ilham Aliyev, of his care for Azerbaijani citizens[21].

43. Abulfaz Garayev, the Minister of Culture and Tourism of Azerbaijan stated: "In our opinion it is a fair decision, which undoubtedly makes our enemies worry. However, we don't care, for the aim of each Azerbaijani is to fight against his enemies, wherever he is"[22].

44. Moreover, Ramil Safarov was present at the funerals of Azerbaijani soldiers who died as a result of Azerbaijani aggression of April 2-5, 2016 and this was largely demonstrated as a merit for all Azerbaijani people[23].

45. Another infamous example of a consistent state-supported policy aimed at incitement to hatred and violence against Armenians is reflected in the Human Rights Watch reports on Azerbaijan and in international mass media publications. According to the Human Rights Watch report, Akram Aylisli, a member of the Union of Writers of Azerbaijan since the Soviet era, became a target of a smear campaign after the publication of a novel he wrote that contained a critical analysis of Azerbaijan's modern history and angered high-level government officials. The novel, Stone Dreams, included a description of violence by ethnic Azeris against Armenians during the 1920s and at the end of the Soviet era when the two countries engaged in armed conflict. Against the background of the unresolved nature of the conflict, Aylisli's

[19] *SolomNews*, 31.08.2012 http://www.peeep.us/cc1ed01d

[20] Zerkalo newspaper, 28.02.2004 (https://ru.wikipedia.org/wiki/%D0%A1%D0%B0%D1%84%D0%B0%D1%80%D0%BE%D0%B2,_%D0%A0%D0%B0%D0%BC%D0%B8%D0%BB%D1%8C_%D0%A1%D0%B0%D1%85%D0%B8%D0%B1_%D0%BE%D0%B3%D0%BB%D1%8B).

[21] *Inews.az*, 03.09.2012 http://www.peeep.us/2736551d

[22] Inews.az, 06.09.2012 http://www.peeep.us/1ef20a22

[23] http://armedia.am/eng/news/32548/ramil-safarov-not-on-the-front-line-but-at-a-funeral.html

sympathetic portrayal of Armenians and condemnation of violence against them caused uproar in Azerbaijan. Hateful rhetoric and threats against Aylisli started at the end of January 2013, culminating in a February 11 public statement by the head of a pro-government political party promising 10,000 manat (US$12,700) for Aylisli's ear[24]. On January 29 officials from Azerbaijan's ruling party publicly called on Aylisli to withdraw the novel and ask for the nation's forgiveness. Aylisli told Human Rights Watch that two days later, about 70 people gathered in front of his home, shouting "Akram, leave the country now" and, "Shame on you," and burned effigies of the author. Besides, In a speech critical of Aylisli's book, a high-level official, the Head of Azerbaijani Presidential Administration's Social and Political Department Ali Hasanov said, "We, as the Azerbaijani people, must express public hatred toward these [Armenian] people."[25]. This call for public hatred was widely spread in the international media and was qualified as a call that should be criminally prosecuted.

46. As mentioned by the BBC, President Ilham Aliyev himself signed the decree stripping Aylisli of his national awards and monthly literary stipend. Ruling party parliamentarians demanded he leave the country or that his DNA be tested to see if he was really Azeri, and not in fact Armenian[26].

47. The fact that hatred towards Armenians is spread from the very highest level of Azerbaijani leadership is also confirmed by Ilham Aliev's words stating that "our main enemies are Armenians of the world"[27]. He also declared that "(...) Armenia as a country is of no value. It is actually a colony, an outpost run from abroad, a territory artificially created on ancient Azerbaijani lands"[28]. During the recent TV debate of April 12, 2016, broadcasted by *France24* and dedicated to the events of April 2-5, 2016 the Azerbaijani ambassador to France declared

[24] "Azerbaijan: Stop Harassing Writer," Human Rights Watch news release, February 12, 2013, http://www.hrw.org/news/2013/02/12/azerbaijan-stop-harassing-writer.
[25] Tightening the screws. Azerbaijan's crackdown on Civil Society and Dissent. Human Rights Watch report, https://www.hrw.org/report/2013/09/01/tightening-screws/azerbaijans-crackdown-civil-society-and-dissent; http://en.trend.az/azerbaijan/politics/2116003.html
[26] http://www.bbc.com/news/world-europe-21459091
[27] http://en.president.az/articles/14406.
[28] http://www.reuters.com/article/us-azerbaijan-armenia-idUSBREBAJ10C20121120.

that his interlocutor, the leader of Armenian community of France is enemy, since he is Armenian[29].

48. All these publicly expressed calls and opinions of Azerbaijani high officials violate Article 4 (c) of the UN International Convention on the Elimination of all Forms of Racial Discrimination. This provision provides that state parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

49. Under the terms of article 4 (c) regarding public authorities or public institutions, racist expressions emanating from such authorities or institutions are regarded by CERD as of particular concern, especially statements attributed to high-ranking officials. Namely, according to the CERD General Recommendation No 35 on Combating Racist Hate Speech. "Under the terms of article 4 (c) regarding public authorities or public institutions, racist expressions emanating from such authorities or institutions are regarded by the Committee as of particular concern, especially statements attributed to high-ranking officials. Without prejudice to the application of the offences in subparagraphs (a) and (b) of article 4, which apply to public officials as well as to all others, the "immediate and positive measures" referred to in the chapeau may additionally include measures of a disciplinary nature, such as removal from office, where appropriate, as well as effective remedies for victims"[30].

[29] www.france24.com.
[30] http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIntro.aspx.

II. Grave Violations of International Human Rights Law and Humanitarian Law by the Azerbaijani Forces

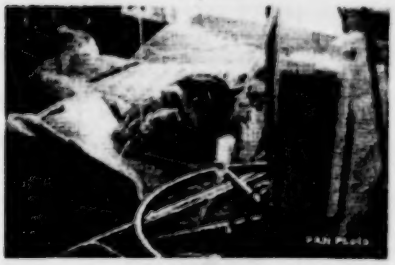
A) Killing and Wounding Children as a Result of Shelling Civilian Settlements, including Schools and Homes

50. In the early morning of April 02, 2016, *i.e.* at the very beginning of the hostility in Nagorno Karabakh, Vagharshak Grigoryan, a 12-year-old student of the Martuni secondary school (picture "a") was killed as a result of targeted shelling of the school. Besides, four other children, Vagharshak Grigoryan's 11-years old twin brothers G.G. (picture "b") and Gr.G., as well as their two schoolmates, V.A. (picture "c", 12 year old), G.H. (13-years old), were heavily wounded. Two of these children are still at the Central Hospital of Stepanakert. The shelling took place at around 8.30 a.m.; the exact time when classes commence and children head to schools. The horrifying fact is that the shelling of the secondary school was carried out with an indiscriminate deadly weapon - the MM-21 *Grad* multiple rockets launcher.

a) Vagharshak Grigoryan, 12 years old, killed by the Azerbaijani military

b) wounded Gevorg Grigoryan, 11 years old

c) wounded Vardan Andreasyan, 12 years old



51. Because of the rocket bombings, kindergartens and schools stopped operating. Children, as well as their families still live under constant fear for their lives.

52. The basic norms of international humanitarian law state that in the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be undertaken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.

53. Moreover, numerous States have expressed the view that military commanders and others responsible for planning, deciding upon or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is available to them at the relevant time. At the same time, many military manuals stress that the commander must obtain the best possible intelligence, including information on concentrations of civilian persons, important civilian objects, specifically protected objects, the natural environment and the civilian environment of military objectives

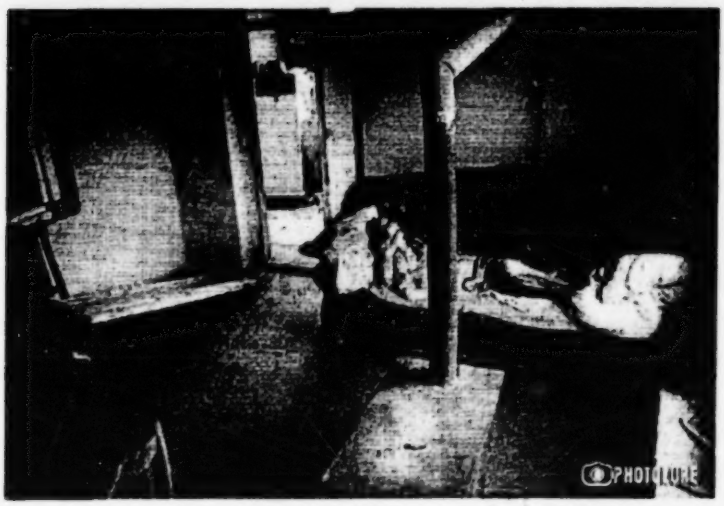
54. Apart from the described violent acts, the Azerbaijani military forces also committed acts of brutality against the elderly and infirm people. The case is about the barbaric methods of murder used by the Azerbaijani forces in the Tallish village of the Martakert region. This is a bordering village that village was heavily attacked in the early morning hours of April 02, 2016 when people were still asleep.

55. Within very few hours, Azerbaijani soldiers committed terrific brutalities. One of the vivid examples is the killing of an elderly couple, Valerik Khalapyan and Razmela Vardanyan (picture "d") and the complete destruction of their house in Tallish. They were shot in their home and

were tortured, with their ears cut off (picture "f"). Azerbaijani soldiers also murdered Valerik Khalapyan's 92-year-old mother, Marousya Khalapyan (picture "e"). All the killed persons were aged and infirm. As it is very clear from the pictures below, Azeri soldiers, acting with motivation of hatred, destroyed everything in the Khalapyan family house. The family lived with their children and grandchildren who barely managed to escape before the Azerbaijani soldiers attacked the house (picture "f" – see the child backpack, the teddy bear, and the baby clothes).

d) Valerik Khalapyan and Razmela Vardanyan, killed in their house

e) Killed Marousya Khalapyan, a 92-year-old woman



f) Valerik Khalapyan (with his ears cut off) and a room in his house, inhumanly destroyed

56. Apart from the aforementioned killings, the targeted shelling killed or wounded over two dozen civilians from Martakert, Martuni, Askeran, and other settlements (G.A., Ts.A., K.A., Z.A., including minors K.O., K.M., V.A., G.G. and others).

57. As media reports suggest, on April 06, 2016, an ambulance vehicle was shot at and destroyed by an Azerbaijani tank. The ambulance vehicle was going to transport the bodies of killed NKR servicemen from the Line of Contact [31].

58. Starting from the very first day of the atrocities, the Azerbaijani armed forces opened fire at the Martakert region, shelling residential houses and buildings. The local population was under constant risk of bombardment. Even on April 03, 2016, after the Azerbaijani Defence Ministry said that it had stopped the hostilities, the shelling intensively continued[32]. The announcement of the Azeri official was not confirmed by the Ministry of Defence of the Nagorno Karabakh Republic. Moreover, it was informed that the Azeri Armed Forces used Grad multiple rocket launchers and 152mm artillery guns to shell the town of Martakert. After

[31] http://news.am/eng/news/320969.html.
[32] https://rbth.com/news/2016/04/03/azerbaijan_intensively_shelling_karabakh_town_of_martakert_58150

declaring a unilateral ceasefire, the Azerbaijani forces continued the bombarding[33]. According to reliable media publications, Azerbaijan *"concentrated sizeable forces"* in various parts of the frontline. As a consequence:

- the Martakert town was reportedly hit by 25 shells[34]
- several residential houses were damaged in the Martakert region
- the gas pipeline was damaged
- residents of the Mataghis village were evacuated
- the mayor of the Matagh's village Z.A. was wounded as a result of the offensive[35]
- several hundred residents of Artsakh were evacuated from the war zone and took refuge in various hotels in the village of Vank[36].

59. It must be highlighted that the IV Geneva Convention of 1949 (Azerbaijan is a State Party thereto) establishes that the wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect (Article 16 (I)). The same protection is provided by Article 17 of the same Convention.

60. According to Article 27 of the said Convention, protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

61. Article 32 of the Convention specifies that the High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition

[33] http://www.cbc.ca/news/world/azerbaijan-cease-fire-1.3518700
[34] https://www.rt.com/news/338262-journalists-shelled-baku-ceasefire/
[35] http://news.am/eng/news/320162.html
[36] http://hetq.am/eng/news/67120/many-artsakh-evacuees-now-sheltered-in-vank-village-hotels.html

applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

62. Article 147 of the IV Geneva Convention establishes that grave breaches to which the mentioned Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

B) Torture, Dismemberment and Mutilation of the NKR Defence Army Servicemen's Bodies

63. During the escalation of the armed conflict in the Nagorno Karabakh Republic in April 2016, in the course of Azerbaijani military operations, three NKR soldiers, Hayk Toroyan, Kyaram Sloyan, and Hrant Gharibyan were killed and beheaded after the overwhelming troops of the Azeri Special Forces attacked their positions near the village of Tallish, in the north of Artsakh. In accordance with various media reports, after the decapitation, Kyaram Sloyan's head was taken by the retreated Azerbaijani troops. Later, pictures of Azerbaijani soldiers holding Sloyan's decapitated head surfaced in social networks (in particular: *VKontakte*). Soon thereafter, a video emerged in the internet, showing an Azerbaijani holding the severed head of Sloyan to the public. In the relevant screenshot, a serviceman in a uniform holding the head of Kyaram Sloyan is seen, taking photos with Sloyan's head, holding by the ears, as well as a hand of a person, most probably without uniform, holding the head (pictures "h"). In

accordance with the media reports, after taking photos with Sloyan's head, it was transferred to the nearest village and shown to the local residents[37] (picture "g").

g) Beheaded head of the NKR Defence Army member Kyaram Sloyan and its demonstration to the public

[37] http://ezidipress.com/ru/?p=4851.

h) An Azerbaijani illustrates the head of NKR soldier Kyaram Sloyan as his trophy, and hatred comments of Azerbaijani people in the social media (Facebook)

64. On April 10, 2016, Azerbaijan returned the bodies of 18 soldiers of the Nagorno Karabakh Defence Army. All of them without exception bore signs of torture and mutilation, which was registered by the NKR State Commission on Prisoners of War, Hostages and Missing Persons at the presence of the representatives of the International Committee of the Red Cross, as stated on the NKR Ministry of Foreign Affairs official website[38].

65. The prohibition of mutilation or other maltreatment of dead bodies during armed conflicts constitutes an established norm of customary international law, irrespective of how a conflict is qualified. It is stipulated in various international documents including the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. Article 34(1) thereof stipulates in particular that "the remains of persons who have died for reasons related to occupation or in detention resulting from occupation or hostilities ... shall be respected". Furthermore, pursuant to Article 8(2)(b)(xxi) and (c)(ii) of the 1998 Statute of the International Criminal Court, "committing outrages upon personal dignity" constitutes a war crime in both international and non-international armed conflicts. Despite the fact that the Republic of Azerbaijan isn't a State Party to those international agreements, the very substance of the mentioned provision has customary nature. For a better demonstration of the customary nature of the mentioned provision, one may refer to the international documents stated below.

66. Article 19 of the Laws of War on Land adopted by the Institute of International Law in 1880 (the Oxford Manual) provides: "It is forbidden to ... mutilate the dead lying on the field of battle."

67. In the UN Commission on Human Rights resolution on human rights and forensic science adopted in 2005 "the importance of dignified handling of human remains, including their proper management and disposal, as well as of respect for the needs of families" was underlined.

68. Mutilation or other maltreatment of dead bodies during armed conflict is prohibited under the military manuals of more than twenty different countries, including Australia, Canada, Greece, Israel, Netherlands, Spain, USA etc. It is considered a criminal offence in the

[38] http://www.nkr.am/en/news/2016-04-11/8866/.

national legislation of countries representing different legal systems from all the continents, including Australia, Bangladesh, Morocco, Ethiopia, Somalia, USA, Venezuela, Italy, Spain, etc[29].

69. Accordingly, the facts of beheading Hayk Toroyan, Kyaram Sloyan, and Hrant Gharibyan by the Azerbaijani troops, as well as the torturing and mutilation of 18 NKR army members constitute grave breaches of customary international law.

[29] https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule113.

III. Public Praise for Acts of Brutality Committed as Part of the Azerbaijani Military Aggression on April 2-5, 2016

70. The Azerbaijan's military aggression against the Nagorno Karabakh Republic and its peaceful population of April 2-5, 2016 was accompanied by mutilation and other forms of maltreatment of dead bodies, as mentioned above. These acts have been explicitly encouraged by the Azerbaijani authorities. There are cases when people (both civilian and soldiers) were tortured while alive through beheading, dismemberment and other acts of hostility and brutality (ears and arms cut, etc.). These atrocities are grave violation of all universal human rights, including the right to life, the right to be free from torture and inhuman or degrading treatment, the right to privacy, etc.

71. The horrifying example is the case of Kyaram Sloyan who was beheaded, after which his head was taken by the Azerbaijani military forces and was extensively demonstrated to the soldiers and to the Azerbaijani general public. The head of the soldier was perceived as a criterion of privilege over Armenians. This case was very widely disseminated through the social media and wholeheartedly welcomed by the Azerbaijani social media users[40] (see above, pictures "g" and "h"). Later, it transpired that Mr. Kyaram Sloyan, the beheaded soldier, was a representative of the Yezidi nation.

72. All of the described brutalities are demonstrated to the public as the Azerbaijani side's merit and achievement, and as evidence of their "victory." Moreover, it is clear in the videos and pictures uploaded by Azerbaijanis themselves that the beheadings and demonstration of brutalities to the wider public are perceived as a symbol of encouragement of hatred and aggression towards Armenians. All these atrocities were also widely spread through the social media and even official websites, as well as other forms of mass dissemination. Monitoring of the aforementioned media sources reveals comments inciting hatred and violence against Armenians, which were made under the postings and shared by thousands of Azerbaijanis.

73. Thus, the Azerbaijani authorities and people use the Internet with the purpose of spreading the evil of hatred and killings without any chance of tolerance.

[40] See also the uploaded video at:
http://vk.com/azerbaycan?z=video153337509_456239017%2Falb69b5e8f48f5d92f%2Fpl_post_23232544_2312677

74. The events of April 2-5 were followed by demonstrations organized by the Azerbaijani communities in several European countries: all of them were full of hate speech and incitement to violence. For example, on April 09, 2016, a number of organizations representing the Azerbaijani-Turkish communities in Sweden organized a demonstration in the Sergels Torg square of Stockholm. In the video footage of the demonstration, which was made available to the public, one of the organizers of the demonstration, Barbaros Leylani, made anti-Armenian statements containing clear expressions of incitement to violence, hatred and racial discrimination, which received overwhelming support from the participants of the demonstration. Participants of the demonstration chanted slogans such as "Death for the Armenian dogs"[40]. This was also broadcast by Swedish TV channels[42].

75. On April 16, 2016, Swedish Prime Minister Stefan Löfven reacted to the above-mentioned anti-Armenian statements: "In Sweden, it is completely unacceptable to incite against other groups, be it religious, ethnic or political," said Löfven in his statement. "Here, all political activities should be conducted democratically and with respect to the values of equality and rights. These principles are not negotiable."

76. Alice Bah Kuhnke, the Minister for Culture and Democracy of Sweden, also reacted to the incitement to violence by Barbaros Leylani: "What happened on Saturday [April 9] and the disgusting statements made are of course unacceptable. They made me feel bad," said Bah Kuhnke[43].

77. Further deep concern is caused by the fact that, after the above-mentioned atrocities against the NKR peaceful population and members of NKR Defence Army, the Azerbaijani public started demonstrations and rallies in Baku, demanding to continue the military campaign in Nagorno Karabakh. The demonstrations were accompanied with hate speech and calls for further military offensive operations. This evidence shows the effects of the systematic Azerbaijani state-supported hatred policy. Moreover, during all these demonstrations, the

[40] http://www.journalreview.com/news/article_4d42f994-236c-5349-9f99-05c012575a21.html; http://www.usnews.com/news/world/articles/2016-04-11/insulting-remarks-about-armenia-forces-resignation-in-sweden.

[42] http://www.tv4.se/nyheterna/klipp/nyheterna-1900-3344172?utm_campaign=tv4.se-framework&utm_content=http%3A%2F%2Fwww.tv4.se%2Fnyheterna%2Fklipp%2Fnyheterna-1900-3344172&utm_medium=facebook-like&utm_source=www.tv4.se.

[43] http://armenpress.am/eng/news/843813/.

Azerbaijani people were demonstrating symbolic signs of the organization called "Grey Wolves"[44], which are easily recognizable in all videos[45].

78. The Azerbaijani authorities failed to prevent the mentioned rallies and demonstrations, despite their positive obligation under international human rights instruments, including first of all the UN International Convention on the Elimination of All Forms of Racial Discrimination of 1965, the obligation to prohibit and punish those forms of public incitement to hate speech, hostile and violent calls[46].

79. All of the described facts and activities carried out and organized by the Azerbaijani authorities clearly constitute grave violations of the international human rights protection system endorsed by the civilized world. This purposeful policy implies endless violence and systemic hatred towards Armenians who live in Nagorno Karabakh. Therefore, these violations require proper actions from the respective international human rights organizations, as a matter of concern for the whole international community.

[44] This organization is forbidden in many countries and considered a terrorist organization. Members of "Grey Wolves" are known for their brutalities and barbaric approach towards civilians and they are very active in Azerbaijan. The roots of this organization go to famous Turkish terrorist organization "Ergnekon". Moreover, it is well known that in their ideology and activities, members of "Grey Wolves" are hostile to Armenians, Greeks and Christians overall (https://en.wikipedia.org/wiki/Grey_Wolves_(organization))

[45] https://www.youtube.com/watch?v=o0_HERyiCrM

[46] http://indicators.ohchr.org/

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Prevention of armed conflict

Security Council
Seventy-first year

Letter dated 29 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I am transmitting herewith a statement by the Ministry of Foreign Affairs of the Nagorno-Karabakh Republic, dated 26 April 2016 (see annex).

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(*Signed*) Zohrab **Mnatsakanyan**
Ambassador
Permanent Representative

16-07326 (E) 060516

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A/70/864
S/2016/414

Annex to the letter dated 29 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Statement by the Ministry of Foreign Affairs of the Nagorno-Karabakh Republic

Stepanakert, 26 April 2016

Following the large-scale aggression on 2 to 5 April this year against the Nagorno-Karabakh Republic, Azerbaijani authorities continue their efforts to finally derail the peace process and transfer it to a military dimension. Azerbaijani attempts at the United Nations and the Organization for Security and Cooperation in Europe (OSCE) to unilaterally denounce the trilateral ceasefire agreement of 12 May 1994 come to prove this. At the same time, Azerbaijan resorts to its traditional practice of fraud and manipulation, trying to put the blame on the Armenian sides and thereby avoid responsibility for unleashing the war.

In this regard, we consider it necessary to remind that the ceasefire agreement concluded between the Nagorno-Karabakh Republic, Azerbaijan and Armenia for an indefinite term is the only real achievement in the Azerbaijani-Karabakh conflict settlement process. It is thanks to this agreement that foundations for peace talks were laid and conditions were created for the activities of the mediators to find a just and final solution to the conflict.

We share the view of the OSCE Minsk Group co-chairs that this agreement, as well as the agreement of February 1995, is the basis for the ceasefire and its strengthening. We also consider as extremely important the consolidation of positions of the international community and the mediator countries in taking effective and urgent measures to force Azerbaijan to comply with the commitments taken under those agreements.

The Ministry of Foreign Affairs of the Nagorno-Karabakh Republic strongly condemns any attempts by the Azerbaijani authorities to reconsider those agreements, assessing them as an explicit intention of Azerbaijan to unleash another war, and considers it necessary to fully restore the ceasefire established in May 1994.

To guarantee the security of the Nagorno-Karabakh Republic and its people, as well as to promote peace and stability in the region, Nagorno-Karabakh Republic authorities will take diplomatic and other possible measures to ensure the full implementation of the agreements of 12 May 1994 and 6 February 1995 and to exclude the possibility of developments along the criminal scenario planned by the Azerbaijani authorities.

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Seventy-first year

Letter dated 6 May 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I transmit herewith a copy of note verbale 04/586/2016 of the Ministry of Foreign Affairs of the Nagorno Karabakh Republic, dated 3 May 2016, addressed to all Permanent Delegations and Missions of the Participating States to the Organization for Security and Cooperation in Europe (OSCE), to OSCE Partners for Cooperation and the OSCE Secretariat and Institutions (see annex).*

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(*Signed*) Zohrab **Mnatsakanyan**
Ambassador
Permanent Representative

* Annex is being circulated in the languages of submission only.

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Annex to the letter dated 6 May 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

[Original: English and Russian]

To all Permanent Delegations and Missions of the Organization for Security and Cooperation in Europe (OSCE) Participating States
To the OSCE Partners for Cooperation
To the OSCE Secretariat and the OSCE Institutions

Vienna

MINISTRY OF FOREIGN AFFAIRS OF THE NAGORNO KARABAKH REPUBLIC

N 04/586/2016

The Ministry of Foreign Affairs of the Nagorno Karabakh Republic presents its compliments to all Permanent Missions and Delegations to the OSCE, the OSCE Partners for Co-operation, the OSCE Secretariat and Institutions and has the honour to communicate the following:

On the night of 1 to 2 April, in flagrant violation of the ceasefire agreement of 12 May 1994 and the agreement of 6 February 1995 on strengthening the ceasefire, the Azerbaijani side undertook a large-scale offensive along the entire Line of Contact between the armed forces of the Nagorno Karabakh Republic and Azerbaijan using heavy equipment, artillery and combat aviation. On 5 April Azerbaijan, after suffering heavy losses in manpower and equipment (24 battle tanks, 2 helicopters, 14 UAVs, 6 armoured vehicles, 1 AIFV, 1 TOS-1A, 1 MLRS "Grad", 1 engineering vehicle) as it was in 1994 asked for a cessation of hostilities through the mediation of the Russian Federation. The cease-fire has been generally observed despite periodic violations from the Azerbaijani side.

The intensity and the scale of the military actions, the number of forces and combat equipment involved, as well as the statements of Azerbaijani officials clearly indicate that the events of 2-5 April were not a spontaneous escalation, but a carefully planned and prepared military aggression. The deliberate nature of those actions can be vividly seen, in particular, in the interview of the Azerbaijani Foreign Ministry's spokesperson, who stated that there were "no civilians" in Nagorno Karabakh, "but the field and the military",[1] as well as in the statement of Azerbaijani Ministry of Defense, which publicly threatened to strike "crushing blows" on capital Stepanakert using all the "heavy weaponry" at their disposal.[2]

The Nagorno Karabakh Republic has repeatedly drawn the attention of the international community to the facts of systematic and open preparation for the resumption of war by Azerbaijan. We deem it necessary to mention those facts once again:

First, for the past several years Azerbaijan has been uncontrollably arming itself. In violation of the provisions of the CFE Treaty, Azerbaijan has acquired offensive weapons significantly exceeding the maximum allowed ceilings. According to published data, Azerbaijan has an arsenal of about 570 tanks, over 1140 artillery systems of 100 mm caliber and above, nearly 223 AIFVs and 70 attack helicopters whereas it is allowed to have 220 tanks, 285 artillery systems, 135 AIFVs and 50 attack helicopters. The main types of conventional weapons have been imported from six countries – Russia, Belarus, Ukraine, Israel, Turkey and South Africa. From 2010, Azerbaijan signed contracts on arms supplies totaling more than $13 billion, of which about $5 billion with Russia,[3] $3 billion with Turkey (for the supply of 60 T-129 ATAK attack helicopters),[4] $5 billion with Israel.[5]

To All Permanent Delegations and Missions of the OSCE Participating States
To the OSCE Partners for Cooperation
To the OSCE Secretariat and the OSCE Institutions
Vienna

[1] Interview of Azerbaijani Foreign Ministry spokesperson Hikmet Hajiyev with Meduza online newspaper https://meduza.io/feature/2016/04/04/s-toy-storony-tolko-pole-i-voennye
[2] Official statement of the Ministry of Defence of Azerbaijan http://mod.gov.az/index2.php?content=news/2016/20160404_bevanat#ru
[3] http://www.contact.az/docs/2014/Politics/101400093250en.htm#.VyBRvPl96hc
[4] http://www.dailysabah.com/money/2013/02/04/turkeys-atak-helicopter-joins-the-azeri-army
[5] http://www.haaretz.com/israel-news/.premium-1.715293?utm_source=dlvr.it&utm_medium=twitter

According to SIPRI Fact Sheet "Trends in International Arms Transfers, 2015", Azerbaijan was the largest importer of major weapons in Europe from 2011 to 2015.[6]

Azerbaijani authorities, at the highest level, on numerous occasions have publicly stated that they seek to achieve a manifold military superiority to launch a sudden and decisive offensive and capture Nagorno Karabakh. On 23 March 2015, the Minister of Defense of Azerbaijan stated that they accumulated necessary weapons and equipment to destroy 70 percent of the enemy in the first strike. "The time has come," he added.[7] On 19 March 2016, President Aliyev said Azerbaijan "took full advantage on the Line of Contact, devastating blows are inflicted on the enemy".[8]

Second, despite appeals of the mediators and the international community to prepare societies to peace, not war, Azerbaijan has been promoting hatred, intolerance and hostility towards Armenians. Extreme forms of racism and xenophobia towards Armenians in Azerbaijan have been also registered in the documents of a number of international organizations, in particular the concluding observations of the UN Committee on the Elimination of Racial Discrimination (CERD/C/AZE/CO/4 dated 14 April 2005); ECRI reports on Azerbaijan dated 28 June 2002, 15 December 2006 and 23 March 2011; and the opinions on Azerbaijan of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities dated 22 May 2003 and 9 November 2007.

On 28 February 2012, the President of Azerbaijan openly stated that "Armenians of the world are the main enemy of Azerbaijan".[9] Some months later the President of Azerbaijan transferred to Azerbaijan and then immediately pardoned and glorified Ramil Safarov, an Azerbaijani officer, who was serving life time imprisonment for a dreadful crime perpetrated on the ground of hatred against Armenians. In response to strong critical reaction of the international community Azerbaijani President justified its openly provocative action in strongest terms. Such behaviour, seen in many other cases, is a direct violation of Article 4 of the International Convention on Elimination of All Forms of Racial Discrimination, which prohibits national or local public authorities or public institutions to promote or incite racial discrimination.

Third, over the past few years, violations of the ceasefire by Azerbaijan have become permanent. Each time, those violations were becoming more serious both by their nature and scope. Starting from January 2014, Azerbaijan unleashed a subversive war against NKR, which reached its culmination in late July – early August, resulting in numerous casualties. In November 2014, Azerbaijani armed forces downed an NKR Defense Army helicopter, which was making a training flight near the Line of Contact. From January 2015, Azerbaijani armed forces have been using mortars to shell the positions of the NKR Defense Army. From September they have been using heavy artillery and multiple launch rocket systems and from December onwards tanks.

Azerbaijan's policy of constant escalation has been publicly defined by the Minister of Defense of Azerbaijan, who stressed that Azerbaijani "soldiers day and night should use every opportunity to destroy the enemy"[10]. Already after large-scale military offensive, at a meeting with the supreme command staff on 23 April the Azerbaijani Defense Minister underlined that the armed forces of Azerbaijan were ready to restore the territorial integrity of the country at any cost. "That is what our state expects from us and what our people want us to do", he said.[11]

Fourth, since 2014 Azerbaijani authorities have intensified persecution against the civil society representatives involved in public diplomacy initiatives aimed at promoting a settlement to the

[6] http://books.sipri.org/files/FS/SIPRIFS1602.pdf
[7] http://en.apa.az/xeber_azerbaijani_defense_minister_____we___ll_des_224698.html
[8] http://en.president.az/articles/19436
[9] http://en.president.az/articles/4400
[10] http://en.apa.az/xeber_azerbaijani_defense_minister_____we___ll_des_224698.html
[11] http://en.apa.az/news/242585

Azerbaijani-Karabakh conflict. Having arrested a number of Azerbaijani activists on charges of espionage in favor of Armenia, including journalist Rauf Mirkadirov (20 April 2014) and human rights activists Leyla and Arif Yunus (30 July 2014), Azerbaijani authorities thwarted the attempts to establish relations between the societies of Azerbaijan, NKR and Armenia even at the level of people to people contacts.

At the same time, freedom of speech in Azerbaijan has been severely restricted and the possibility to express an alternative point of view has almost been completely eliminated in the public space. On 24 September 2014, President of Azerbaijan signed an order to prevent the dissemination of information on dislocation and assignment of facilities of special significance for reasons of national security and defense, strategic, operational and mobilizing deployment of military units, the organizational structure and personnel strength of military units, as well as other military information constituting a state secret in the media and online resources, as well as in social networks. The same order tasked the Government of Azerbaijan to prepare and submit within three months a new edition "On Martial Law".[12] Such actions, including total control over information, are typical for a country preparing for war. It is noteworthy that this order was signed a month after the failed attempt by Azerbaijan to attack the NKR in August 2014 and was aimed at, inter alia, covering the actual losses of the Azerbaijani army.

Fifth, Azerbaijani authorities have consistently rejected all proposals by the mediators, the NKR and Armenia to reduce tensions and promote stability and predictability on the Line of Contact between the armed forces of the NKR and Azerbaijan. In particular, they have rejected the proposal put forward by the OSCE Minsk Group Co-Chairs on the withdrawal of snipers (2009) and establishing a mechanism for investigation of incidents (2011), as well as the NKR initiatives to establish a hotline between the parties and their operational headquarters (2001), to conduct ongoing monitoring of the ceasefire through an expansion of the office staff of the Personal Representative of the OSCE Chairperson-in-Office (2004), to refrain from any provocative actions during religious holidays (2012). Azerbaijan also rejected the initiative (2015), proposed by US Congressmen Ed Royce and Eliot Engel and supported by more than 80 members of the US Congress, on installing advanced gunfire-locator systems and sound-ranging equipment to determine the source of attacks on Line of Contact.

Sixth, for many years Azerbaijani authorities have pursued a policy aimed at disrupting the negotiation process and undermining the mediation format of the OSCE Minsk Group Co-Chairs. Azerbaijan has systematically and consistently refused at first, further bilateral talks between the NKR and Azerbaijan, later trilateral talks between the NKR, Azerbaijan and Armenia, completely stalled the Armenia-Azerbaijan negotiations in 2014-2015 and, ultimately, refused to meet with the OSCE Minsk Group Co-Chairs in late 2015 – early 2016. On 19 March 2016, the President of Azerbaijan openly accused the Minsk Group Co-Chairs of provocation against Azerbaijan and stated that Azerbaijan's confidence in their activities had been completely undermined.[13]

All of these facts indicate that by building up military potential, rejecting any peace initiatives, seeking to isolate Nagorno Karabakh at all costs, promoting xenophobia, hostility and militarism, Azerbaijan was laying the groundwork for a new aggression. It was obvious that when the intention of Azerbaijan to solve the conflict by force matches the actual capacities, resumption of large-scale hostilities could become a reality, which is what happened on 2 April 2016.

It is noteworthy that on the first day of the aggression, the official Baku did not even hide the fact that it was Azerbaijan which started the war. In particular, the Azerbaijani Ambassador to Russia in an interview with radio station "Govorit Moskva" (Moscow speaking) and Television Network "Dozhd" on 2 April 2016 said that Azerbaijan had no other option than to solve the conflict by force.[14] Only after it

[12] http://ru.president.az/articles/12963
[13] http://en.president.az/...rticles/19436
[14] http://govoritmoskva...u/news/74103/

became clear that plans for a blitzkrieg failed completely, the Azerbaijani authorities have resorted to the now traditional practice of fraud and manipulation, trying to place the blame for the escalation of violence on the Armenian sides and thus avoid responsibility. Against the background of the long-term and consistent preparation of Azerbaijan to a new military aggression, it becomes obvious that the calls of the Azerbaijani side to change the status quo are pursuing a single goal to create favourable conditions for unleashing a new war, but with a more advantageous position. The latest statement of the Azerbaijani side that the trilateral ceasefire agreement of 1994 signed for an indefinite term by Azerbaijan, the Nagorno Karabakh Republic and Armenia lost its effect is a continuation of the policy on disruption of the peace process and instigating a war in the region.

The events of 2-5 April have clearly demonstrated that non-specified and artificially balanced statements have no deterrent effect. On the contrary, the absence of resolute and identifiable condemnation of ceasefire violations creates a sense of permissiveness and impunity on the Azerbaijani side, thus increasing the temptation to solve the conflict by military means. The consistent escalation of tension by Azerbaijan on the Line of Contact preceding the aggression of 2-5 April was a test not only for the combat capability of the NKR Defense Army, but also the international community's reaction towards use of force.

The Nagorno Karabakh Republic, being committed to exclusively peaceful means of settlement of the conflict, will make every effort to fully restore the ceasefire concluded in May 1994 and confirmed by trilateral Agreement of July 27, 1994. As noted by the OSCE Minsk Group Co-Chairs, the agreements of 12 May 1994 and 6 February 1995 are the basis for the ceasefire regime and its strengthening.

In order to ensure the irreversibility of the peace process, eliminate the possibility of resumption of hostilities, to find a way out of the current situation and create solid basis for the settlement of the Azerbaijani-Karabakh conflict and establishment of sustainable and final peace practical steps should be taken, in particular:

- Taking urgent measures to ensure full compliance with the ceasefire agreement 12 May 1994;
- Practical application of the agreement of 6 February 1995, signed by the leaders of Azerbaijan, the Nagorno Karabakh Republic and Armenia under the auspices of the OSCE. The agreement contains a whole set of militarily significant stabilizing measures for crisis situations and consolidation of the ceasefire;
- Implementation of effective and efficient mechanisms for early warning of crisis situations, including the establishment of a permanent monitoring of the ceasefire and investigation of potential violations;
- Restoration of full-format negotiations between the NKR, Azerbaijan and Armenia disrupted by Azerbaijan in 1997. Restoration of direct participation of the NKR in the negotiations stems from the interests of all parties striving for the soonest settlement of the conflict, since it is impossible to resolve the conflict without taking into consideration the opinion of one of its main parties.

The NKR Ministry of Foreign Affairs takes this opportunity to renew to the Permanent Missions and Delegations of the OSCE participating States, the OSCE Partners for Co-operation, the OSCE Secretariat and Institutions the assurances of its highest consideration.

Stepanakert
May 2016

Русский перевод

Министерство иностранных дел Нагорно-Карабахской Республики свидетельствует свое уважение всем делегациям и постоянным представительствам государств-участников ОБСЕ, Партнерам ОБСЕ по сотрудничеству, Секретариату и институтам ОБСЕ и имеет честь сообщить следующее.

В ночь с 1 на 2 апреля, грубо нарушив соглашения о прекращении огня от 12 мая 1994 года и об урегулировании инцидентов от 6 февраля 1995 года, азербайджанская сторона предприняла крупномасштабное наступление вдоль всей линии соприкосновения вооруженных сил Нагорно-Карабахской Республики и Азербайджана с использованием тяжелой техники, артиллерии и боевой авиации. Понеся значительные потери в живой силе и технике (24 танка, 2 вертолета, 14 беспилотных летательных аппарата, 6 бронемашин, 1 БМП, 1 ТОС-1А, 1 РСЗО «Град», 1 инженерную машину), Азербайджан 5 с.г. апреля был вынужден, как и в 1994 году, запросить при посредничестве Российской Федерации прекращение боевых действий, которое в целом сохраняется, несмотря на периодические нарушения с азербайджанской стороны.

Интенсивность и масштабы боевых действий, количество задействованных Азербайджаном сил и боевой техники, а также заявления азербайджанских официальных лиц однозначно указывают на то, что события 2-5 апреля были не спонтанной эскалацией напряженности, а тщательно спланированной и подготовленной военной агрессией. На преднамеренный характер этих действий указывают, в частности, заявление пресс-секретаря МИД Азербайджана о том, что в Нагорном Карабахе «нет мирного населения», «есть лишь поле и военные»[1], и публичные угрозы Министерства обороны Азербайджана нанести «сокрушительные удары» по столице НКР – Степанакерту, используя все имеющиеся в распоряжении «тяжелые боевые средства»[2].

Нагорно-Карабахская Республика неоднократно привлекала внимание международного сообщества к фактам планомерной и открытой подготовки Азербайджана к возобновлению войны. Считаем необходимым вновь привести эти факты:

Первое. На протяжении последних нескольких лет Азербайджан бесконтрольно вооружался. В нарушение положений ДОВСЕ азербайджанская сторона приобрела наступательные вооружения, количество которых значительно превышает максимально допустимые потолки. Согласно опубликованным данным, на вооружении у Азербайджана находятся около 570 танков, более 1140 артиллерийских систем калибра 100 мм и выше, около 223 БМП, 70 ударных вертолетов при разрешенных 220 танках, 285 артиллерийских системах, 135 БМП, 50 ударных вертолетах. Основные виды обычных вооружений Азербайджан импортировал из шести стран - России, Беларуси, Украины, Израиля, Турции и Южной Африки. С 2010 года Азербайджан заключил контракты на поставки вооружений на общую сумму более 13 млрд. долларов, из которых около 5 млрд. с Россией[3], 3 млрд. с Турцией (на поставки 60 ударных вертолетов T-129 ATAK)[4], 5 млрд. с Израилем[5]. Согласно докладу стокгольмского Международного института

[1] Интервью официального представителя МИД Азербайджана Хикмета Гаджиева Интернет-газете Meduza https://meduza.io/feature/2016/04/04/s-toy-storony-tolko-pole-i-voennye

[2] Официальное сообщение Министерства обороны Азербайджана http://mod.gov.az/index2.php?content=news/2016/20160404_beyanat#ru

[3] http://www.contact.az/docs/2014/Politics/101400093251ru.htm#.VyipcPl96hc

[4] http://www.dailysabah.com/money/2013/02/04/turkeys-atak-helicopter-joins-the-azeri-army

[5] http://www.haaretz.com/israel-news/.premium-1.715293?utm_source=dlvr.it&utm_medium=twitter

исследования проблем мира (SIPRI) о торговле оружием в мире за 2015 год, по объемам импорта вооружений за период 2011-2015 гг. Азербайджан занял первое место в Европе[6].

Азербайджанские власти на самом высоком уровне неоднократно публично заявляли, что стремятся достичь многократного военного превосходства для нанесения внезапного удара и захвата Нагорного Карабаха. 23 марта 2015 года министр обороны Азербайджана объявил, что Азербайджан накопил достаточно техники и оружия, необходимых для уничтожения 70% врага с первого же удара. По его словам, , это время наступило»[7]. 19 марта 2016 года президент Азербайджана заявил, что Азербайджан «получил полное преимущество на линии соприкосновения, по врагу наносятся сокрушительные удары»[8].

Второе. Вопреки призывам посредников и международного сообщества о необходимости подготовки обществ конфликтующих сторон к миру, а не к войне, в Азербайджане культивируются ненависть, нетерпение и враждебность по отношению к армянам. Наличие в Азербайджане проявлений крайних форм расизма и ксенофобии по отношению к армянам подтверждается также в документах ряда международных организаций, в частности, в заключительных замечаниях Комитета ООН по ликвидации расовой дискриминации (CERD/C/AZE/CO/4 от 14 апреля 2005 г.); отчетах по Азербайджану Европейской комиссии по борьбе с расизмом и нетерпимостью от 28 июня 2002 г., 15 декабря 2006 г. и 23 марта 2011 г.; мнениях по Азербайджану Консультативного комитета Совета Европы по Рамочной конвенции о защите прав национальных меньшинств от 22 мая 2003 г. и 9 ноября 2007 г.

28 февраля 2012 года президент Азербайджана открыто заявил, что , основным врагом Азербайджана является мировое армянство»[9]. Спустя несколько месяцев экстрадированный в Азербайджан азербайджанский офицер Рамиль Сафаров, отбывавший пожизненное заключение за совершение жестокого убийства на почве ненависти к армянам, был немедленно помилован президентов Азербайджана и удостоился всеобщего прославления. В ответ на резко негативную реакцию международного сообщества азербайджанский президент всячески оправдывал этот откровенно провокационный шаг. Подобное поведение, которые также проявлялось во многих других случаях, является прямым нарушением статьи 4 Международной конвенции о ликвидации всех форм расовой дискриминации, запрещающей национальным или местным органам государственной власти или государственным учреждениям поощрять расовую дискриминацию или подстрекать к ней.

Третье. За последние несколько лет нарушения режима прекращения огня со стороны Азербайджана приобрели постоянный характер. С каждым разом эти нарушения становились все более угрожающими как по своему характеру, так и масштабу. Начиная с января 2014 года Азербайджан развязал диверсионную войну против НКР, которая достигла своей кульминации в конце июля – начале августа, приведя к многочисленным жертвам. В ноябре 2014 года азербайджанская сторона сбила вертолет ВВС Армии обороны НКР, совершавший учебно-тренировочный полет вблизи Линии соприкосновения. С января 2015 года азербайджанские вооруженные силы перешли к обстрелам позиций Армии обороны НКР из минометов, с сентября – из крупнокалиберной артиллерии и реактивных систем залпового огня, с декабря – с применением танков.

Политика Азербайджана по постоянному нагнетанию ситуации и эскалации напряженности была публично сформулирована министром обороны Азербайджана,

[6] http://books.sipri.org/files/FS/SIPRIFS1602.pdf
[7] http://ru.apa.az/news/289110
[8] http://ru.president.az/articles/19436
[9] http://ru.president.az/articles/4400

заявившим, что азербайджанский «военнослужащий должен день и ночь пользоваться каждой возможностью, чтобы уничтожить врага»[10]. Уже после крупномасштабной военной агрессии министр обороны Азербайджана на совещании с высшим командным составом 23 апреля заявил, что вооруженные силы Азербайджана готовы любой ценой восстановить территориальную целостность страны. По его словам, этого ждет государство и требует народ[11].

Четвертое. Начиная с 2014 года азербайджанские власти усилили преследования в отношении представителей гражданского общества, которые были вовлечены в народную дипломатию, направленную на содействие урегулированию азербайджано-карабахского конфликта. Арестовав по обвинению в шпионаже в пользу Армении ряд азербайджанских активистов, включая журналиста Рауфа Миркадырова (20 апреля 2014 года) и правозащитников Лейлу и Арифа Юнусовых (30 июля 2014 года), азербайджанские власти пресекли попытки налаживания отношений между обществами Азербайджана, НКР и Армении даже на уровне человеческих контактов.

Одновременно с этим была резко ограничена свобода слова в Азербайджане, и почти полностью исключена возможность высказывания альтернативной точки зрения. 24 сентября 2014 года президент Азербайджана подписал распоряжение о предотвращении распространения в СМИ и Интернет-ресурсах, а также в социальных сетях сведений о дислокации, назначении объектов, представляющих особое значение по соображениям национальной безопасности и обороны, стратегическом, оперативном и мобилизационном размещении вооруженных соединений, организационной структуре, численности личного состава военных частей, а также относящихся к военной сфере других сведений, составляющих государственную тайну. Этим же распоряжением правительству Азербайджана было поручено в течение трех месяцев подготовить и представить новую редакцию закона «О военном положении»[12]. Подобные действия, включая тотальный контроль за информацией, характерны для страны, готовящейся к войне. Примечательно, что данное распоряжение было подписано через месяц после провалившейся попытки нападения Азербайджана на НКР в августе 2014 года и преследовало цель, в том числе, скрыть реальные потери азербайджанской армии.

Пятое. Азербайджанские власти последовательно отвергали все предложения как посредников, так и НКР, и Армении по снижению напряженности и обеспечению стабильности и предсказуемости на линии соприкосновения вооруженных сил НКР и Азербайджана. В частности, были отвергнуты представленные сопредседателями Минской группы ОБСЕ предложения по отводу снайперов (2009 г.) и созданию механизма расследования инцидентов (2011 г.), а также инициативы НКР по установлению линии прямой связи между сторонами и их оперативными штабами (2001 г.), осуществлению постоянного наблюдения за режимом прекращения огня, посредством расширения состава офиса Личного представителя Действующего председателя ОБСЕ (2004 г.), отказу от любых провокационных действий в период религиозных праздников (2012 г.). Азербайджан также отверг инициативу (2015 г.) конгрессменов США Эда Ройса и Элиота Энгеля, поддержанную более чем 80 членами Конгресса США, относительно установления на линии соприкосновения аудио- и видеосистем контроля за соблюдением режима прекращения огня.

[10] http://ru.apa.az/news/289110
[11] http://en.apa.az/news/242585
http://azertag.az/ru/xeber/Zakir_Gasanov_My_v_lyuboi_moment_dolzhny_byt_gotovy_predotvratit_provokacii_vraga-945536
[12] http://ru.president.az/articles/12963

Шестое. В течение многих лет азербайджанские власти проводили политику, направленную на срыв переговорного процесса и подрыв посреднического формата сопредседательства Минской группы ОБСЕ. Азербайджан планомерно и последовательно сначала отказался от двусторонних переговоров НКР-Азербайджан, затем – от трехсторонних НКР-Азербайджан-Армения, окончательно завел в тупик переговоры в формате Армения-Азербайджан 2014-2015 гг. и, в конечном итоге, отказался от встреч с сопредседателями Минской группы ОБСЕ в конце 2015 – начале 2016 годов. 19 марта 2016 года президент Азербайджана открыто обвинил сопредседателей Минской группы в провокации против Азербайджана и заявил, что вера Азербайджана в их деятельность полностью подорвана[13].

Все эти факты указывают на то, что, наращивая военный потенциал, отвергая любые миротворческие инициативы, стремясь любой ценой изолировать Нагорный Карабах, пропагандируя ксенофобию, враждебность и милитаризм, Азербайджан готовил основу для новой агрессии. Было очевидно, что, когда намерения Азербайджана решить конфликт силой совпадут с реальными возможностями, возобновление крупномасштабных боевых действий может стать реальностью, что и произошло 2 апреля 2016 года.

Примечательно, что в первый день агрессии официальный Баку даже не скрывал того, что именно Азербайджан развязал войну. В частности, посол Азербайджана в России в интервью радиостанции «Говорит Москва» и телеканалу «Дождь» 2 апреля 2016 года заявил, что у Азербайджана нет другого способа, как решать конфликт военным путем[14]. Лишь после того, как стало очевидно, что планы по проведению молниеносной войны полностью провалились, азербайджанские власти прибегли к уже ставшей традиционной практике подлога и манипуляций, пытаясь возложить вину за эскалацию насилия на армянские стороны и тем самым избежать ответственности.

На фоне многолетней и последовательной подготовки Азербайджана к новой военной агрессии становится очевидным, что призывы азербайджанской стороны изменить статус-кво преследуют единственную цель – создать благоприятные условия для развязывания новой войны, но уже с более выгодных позиций. Последнее заявление азербайджанской стороны о том, что подписанное Азербайджаном, Нагорно-Карабахской Республикой и Арменией трёхстороннее бессрочное соглашение о прекращении огня от 1994 года потеряло силу, является продолжением политики по срыву процесса мирного урегулирования конфликта и разжиганию войны в регионе.

События 2-5 апреля убедительно показали, что безадресные и искусственно сбалансированные заявления не обладают сдерживающим эффектом. Напротив, отсутствие решительного и адресного осуждения нарушений режима прекращения огня порождает у азербайджанской стороны ощущение вседозволенности и безнаказанности, тем самым усиливая соблазн решить вопрос военным путем. Предшествовавшая агрессии 2-5 апреля последовательная эскалация Азербайджаном напряженности на линии соприкосновения была проверкой не только боеспособности Армии обороны НКР, но и реакции международного сообщества на использование силы.

Нагорно-Карабахская Республика, будучи приверженной исключительно мирному урегулированию конфликта, будет прилагать все усилия для полного восстановления режима прекращения огня, заключенного в мае 1994 года и подтвержденного трехсторонним соглашением от 27 июля 1994 года. Как отметили сопредседатели

[13] http://ru.president.az/articles/19436
[14] http://govoritmoskva.ru/news/74103/

Минской группы ОБСЕ, соглашения от 12 мая 1994 года и 6 февраля 1995 года служат основой режима прекращения огня и его укрепления.

Для обеспечения необратимости мирного процесса, исключения возможности возобновления военных действий, выхода из сложившейся ситуации и создания прочного базиса для процесса урегулирования азербайджано-карабахского конфликта и достижения устойчивого и окончательного мира необходимо предпринять практичные шаги, в первую очередь:

- Принятие неотложных мер для обеспечения полного соблюдения соглашения об установлении режима прекращения огня от 12 мая 1994 года.
- Практическое применение соглашения от 6 февраля 1995 года, подписанного под эгидой ОБСЕ главами государств Азербайджана, Нагорно-Карабахской Республики и Армении. Соглашение содержит целый комплекс значимых в военном отношении мер стабилизации кризисных ситуаций для консолидации режима прекращения огня.
- Реализация эффективных и действенных механизмов по раннему предупреждению кризисных ситуаций, включая установление постоянного мониторинга за соблюдением режима прекращения огня и расследование возможных нарушений.
- Восстановление полноформатных переговоров НКР-Азербайджан-Армения, которые были сорваны Азербайджаном в 1997 году. Восстановление непосредственного участия НКР в переговорах исходит из интересов всех сторон, заинтересованных в скорейшем урегулировании конфликта, так как невозможно решить конфликт без учета мнения одной из его основных сторон.

Министерство иностранных дел Нагорно-Карабахской Республики пользуется случаем, чтобы возобновить делегациям и постоянным представительствам государств-участников ОБСЕ, Партнерам ОБСЕ по сотрудничеству, Секретариату и институтам ОБСЕ уверения в своем высоком уважении.

Степанакерт
3 мая 2016 г.

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Letter dated 28 April 2016 from the Secretary-General to the President of the General Assembly

I have the honour to refer to your letter dated 27 April 2016 (S/2016/409, annex), concurring with my proposal to appoint Justice Seymour Panton (Jamaica) as a judge of the International Residual Mechanism for Criminal Tribunals to replace Judge Patrick Robinson (Jamaica), who has resigned.

I have received a corresponding letter from the President of the Security Council (S/2016/377). Accordingly, I am proceeding with the appointment of Justice Panton as a judge of the Mechanism with immediate effect.

In accordance with article 10, paragraph 2, of the statute of the Mechanism, the appointment of Justice Panton is effective for the remainder of the term of office that Judge Robinson would have served, that is, until 30 June 2016.

I should be grateful if you would bring this appointment to the attention of the members of the General Assembly. A copy of Justice Panton's curriculum vitae is attached (see annex).

(*Signed*) **BAN** Ki-moon

16-07519 (E) 120516

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Annex

Curriculum vitae*

Seymour Panton, OJ, CD, JP, President of the Court of Appeal (Ret.) (Jamaica)

Education

1968	Called to the Bar at Lincoln's Inn, London

Appointments

2007-2016	President of the Court of Appeal of Jamaica
1999-2007	Judge of the Court of Appeal
1998-1999	Acting Judge of the Court of Appeal
1986-1999	Puisne Judge
1981-1986	Acting Puisne Judge
1978-1986	Resident Magistrate
1964-1966	Assistant Clerk of Courts, Lucea, Hanover
1969-1971	Clerk of Courts
1969	Deputy Clerk of Courts
1971-1973	Acting Crown Counsel, Office of the Director of Public Prosecutions
1973-1977	Legal Assistant to the Attorney General of the Cayman Islands
1977-1978	Senior Crown Counsel, Government of the Cayman Islands
2001-present	Acting Judge of the Grand Court, Government of the Cayman Islands

Other appointments and positions

2008-present	Member, Commonwealth Secretariat Arbitral Tribunal
1982-1988	Council Member, Commonwealth Magistrates and Judges Association
1977-1978	President, Cayman Islands Cricket Association
	Former Vice-President of the Association of Resident Magistrates, Jamaica
	Former Associate Tutor at the Norman Manley Law School
	Former Lecturer and Examiner for persons sitting the Deputy Clerk of Courts Qualifying Examinations

* Curricula vitae are issued without formal editing.

Awards

July 2007	Order of Jamaica
2006	Commander of the Order of Distinction (CD) for "Outstanding Service to the Judiciary"
1990	Recipient of a Fulbright grant to observe the operations of the judicial and legislative systems of the United States of America
2007	Cornwall Bar Association for "Outstanding Service to the Legal Profession"
1995	Cornwall Bar Association for "Outstanding Service to the Legal Profession"